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HEARING BEFORE SPEAKER BAN STUDY COMMISSION

State Legislative Building

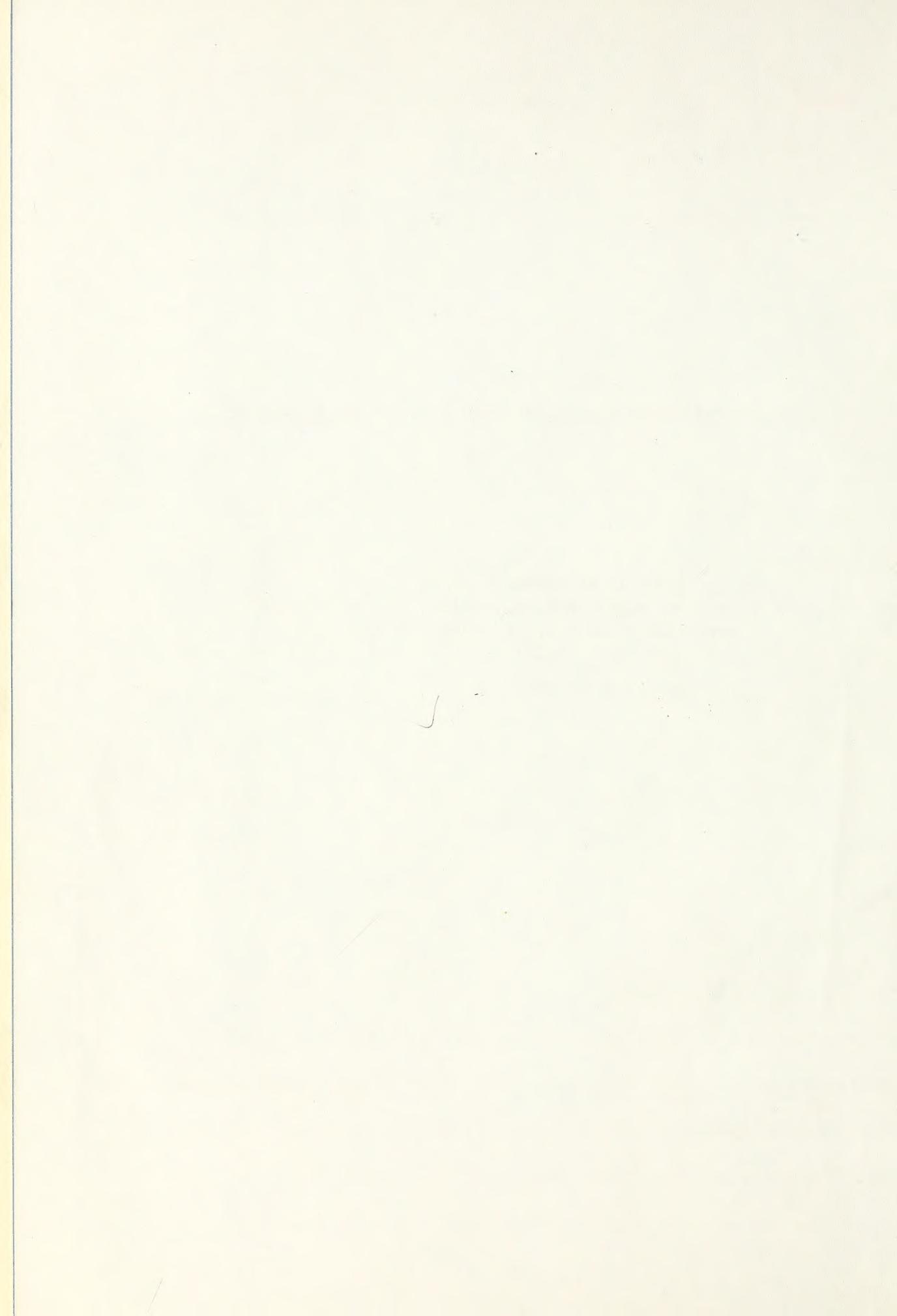
Raleigh, North Carolina

Wednesday, August 11, 1965, 10 a.m.

Testimony of Southern Association of Colleges and Schools

HEARING BEFORE SPEAKER BAN STUDY COMMISSION

State Legislative Building
Raleigh, North Carolina
Wednesday, August 11, 1965, 10 a.m.



Hearing before Speaker Ban Study Commission
State Legislative Building
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This morning in the State Legislative Building in Raleigh the Commission to study the Speaker Ban Law begins hearings on the 1963 Act of the General Assembly which created the law. The scene is the auditorium on the third floor of the Legislative Building. Live television cameras will broadcast full coverage of the hearings by WUNDTV in cooperation with the North Carolina Association of Broadcasters and participating television stations. On WUNDTV, the originating station, the hearings will be telecast in their entirety without interruption or comment. The sound portion of the hearings is being furnished for this telecast to all news media by WBT in Charlotte, cooperating with the State Broadcasters Association. The nine member Commission was created by the 1965 General Assembly. The Act establishing the group refers to it as the "Commission to Study the Statutes Relating to Visiting Speakers at State Supported Educational Institutions." The group is more generally called the "Commission to Study the Speaker Ban Law."

Governor Dan Moore appointed State Representative David M. Britt of Fairmont as Chairman of the Commission. The members of the Commission are seated facing the large contingent of news media, representatives and spectators. Chairman Britt is at the center of the group. At one end of the Commission table scheduled witnesses will be seated. Representatives of four organizations are scheduled to be heard in the two-day hearings this morning. Now Chairman Britt,



Chairman Britt: The meeting of the Commission will please come to order. I am sure that most of you, people here in the auditorium and people who may be listening over radio and watching over television, are acquainted with the purpose of this Commission. However, I think it might be well at the very outset to give a brief word of explanation about the purpose of this Commission, the background of the law or laws which this Commission was designated to study and something about our purpose in general. During the closing days of the 1963 session of the General Assembly of North Carolina an act was passed entitled as follows, "An Act to Regulate Visiting Speakers at State Supported Colleges and Universities." I think it might be well in view of the fact that this Act is brief to read it at this time and it reads as follows:

The General Assembly of North Carolina do enact:

Section 1. No College or University which receives any state funds in support thereof shall permit any person to use the facilities of such college or university for speaking purposes who

- (a) is a known member of the Communist Party.
- (b) is known to advocate the overthrow of the Constitution of the United States or the State of North Carolina.
- (c) has pleaded the Fifth Amendment of the Constitution of the United States in refusing to answer any question with respect to Communist or subversive connections, or activities, before any duly constituted legislative committee, any judicial tribunal, or any executive or administrative board of the United States or any state.

Section 2. This Act shall be enforced by the Board of Trustees or other governing authority of such college or university or by any such administrative personnel as may be appointed therefor by the Board of Trustees or other governing authority of such college or university.

Section 3. All laws and clauses of laws in conflict with this Act are hereby repealed.

Section 4. This Act shall become effective upon its ratification.

The General Assembly

Read three times and ratified this the 26th day of June, 1963.

Then at the 1965 Session of the General Assembly there was considerable discussion about this bill, about its import, and about its effects. At the recommendation of the Governor of North Carolina, Governor Dan K. Moore, the General Assembly authorized this Commission for purpose of studying this law and all other related statutes that bear upon this question and than after its study and deliberations make recommendations to the Governor and to the General Assembly. At this time I would like to recognize the membership or introduce the membership of this Commission. The Act creating the Commission provided that there would be nine members - five members to be selected by the Governor, two members by the President of the Senate, and two members by the Speaker of the House of Representatives. Starting on my extreme right, we have Senator Gordon Hanes, who is serving his second term as Senator from Forsyth County - and was appointed to the Commission by President of the Senate Lt. Gov. Robert Scott. Next to him we have Mrs. Elizabeth Swindell, a newspaper lady from the fine city of Wilson, North Carolina, who was appointed to the Commission by Governor Dan K. Moore. Next to her is Senator Russell Kirby from Wilson who is serving his second term in the Senate. To my immediate right is Representative A. A. Zollicoffer, Jr. of Vance County, who is serving his fifth term in the

House of Representatives from that county. To my immediate left is Col. William T. Joyner, eminent member of the Raleigh Bar who was appointed to the Commission by Governor Dan K. Moore. Next to him Representative Lacy Thornburg, who is serving his third term in the House of Representatives from Sylva in Jackson County and appointed to the Commission by Speaker Pat Taylor. To his left is the Rev. Ben C. Fisher, who is Executive Secretary of the Council on Christian Education of the Baptist State Convention of North Carolina, who lives here in Wake County and was appointed to the Commission by Governor Moore. To his left is Mr. Charles Myers, President of Burlington Industries, of Greensboro, North Carolina, appointed to the Commission by Governor Moore. At the end of the table is Clerk to the Commission Mrs. P. E. Howell of Raleigh. I failed to state that Representative Zollicoffer was appointed to the Commission by Speaker Pat Taylor and Senator Kirby was appointed to the Commission by the President of the Senate, Lt. Gov. Robert Scott. I am David Britt, member of the House of Representatives from Roberson County and appointed to the Commission by Governor Moore.

I would like to say at this time that we are glad to have the visitors present on this occasion. I notice in the auditorium several members of the General Assembly, any number of former members of the General Assembly. I also observe a goodly number of our college presidents from over North Carolina, not only of our state supported institutions but also of some of our church related institutions. I observe in the audience the Chairman of the Higher Board

of Education, Mr. Watts Hill, Jr. of Durham, and several members of that Board, and any number of other fine citizens from across the State who are interested in this matter.

We appreciate the coverage that is being given to these hearings by the news media, the newspaper people, the radio people, and the television people because the Commission members feel that this is a matter we would like for the folks to have as much information as possible about to the end that when this Commission does render its recommendations, then the people of North Carolina will know something about the information that we had on which to base our recommendations, whatever those recommendations might be. I doubt that this is going to be an entertainment program. It is going to be a little bit tedious at times as we try to go into documents, as we try to ask people questions. After all the main purpose of this hearing is to acquaint the membership of this Commission with various facts and information to the end that it might discharge its duties in the way that it should.

By way of further statement, and I hate to even take the time to say this but I feel that I must, we will not be able to allow smoking in the auditorium due to the fire regulations of the Legislative Building.

I think it might be well at this time for the benefit of our visitors and those who may be viewing and listening to say something about the schedule for today and also tomorrow. At our organizational meeting some three or four weeks ago, the Commission felt that it had to start somewhere in garnering the information that it would need to do its work. We first considered the possibility of having completely public hearings

and letting anyone who desired to come and express themselves on either side of this question to come and do so, but it was then felt that possibly the Commission should receive information itself from some of the agencies and institutions that have had something to say about this law and that feel that they are affected by the law to the end that we would then be able to proceed in a more informed fashion. To that end we felt that there should be people from the Southern Association of Colleges and Universities asked to come and make a statement before the Commission and to answer questions asked by members of the Commission. I am sure that there would be many of you - members of the Legislature as well as other interested people - who would like to ask questions yourselves. But I am afraid that we could not possibly get into that because if we allowed this group, we would have to allow another group, and if we allowed another group, we would have to allow everybody. So we are going to follow as well as we can legislative committee procedure and permit questions only from members of the Commission. In the meantime, if there are those of our visitors that during the course of the proceedings feel that there is some question or questions that would shed light upon our inquiry, we would be glad for you to submit those questions in writing either to the Chairman or to any member of the Commission. We will be glad to consider those questions and if the member to whom you hand it sees fit to ask it, it will be asked.

After this morning's session, which will be devoted entirely to hearing from representatives from the Southern Association of

Universities and Colleges, this afternoon, the Commission will inquire particularly into what effect accreditation has upon various aids and grants made to North Carolina schools and colleges by various federal agencies as well as other foundations. At that time we also expect to hear from possibly one or two other people, particularly from the introducer of this bill that is under inquiry. We expect him to be present this afternoon and make a brief statement or such statement as he desires and then we will project our inquiry into the other matters that I have just stated.

The American Association of University Professors has communicated with us and stated a desire to be heard and we have set aside tomorrow morning's session beginning at 10:00 o'clock and running until possibly sometime between 12:00 and 1:00 -- we have set aside that entire session to hearing from that group.

The American Legion of North Carolina or the State Department of the American Legion has asked to be heard and so we intend to devote the entire session tomorrow afternoon beginning at 2:00 o'clock to hearing from that organization.

Now, coming down to the immediate program, we have with us today and at our invitation - I would like to make that clear that this Commission has invited these people here from the Southern Association of Universities and Colleges in order to try to provide the Commission members and the public generally with direct information about the organization and about events that have transpired. Certainly there have been some conflicting statements made by various persons and possibly some of our news media as to statements made by these

people as to plans of these people, so we felt that this Commission was entitled to have them come here and the public of North Carolina was entitled to have representatives of that group come and to give us straight, direct information.

We have on the platform at this time and sitting over to my extreme right Dean Emmett B. Fields, Dean of Vanderbilt University, who is Chairman of the Commission on Colleges and College Delegate Assembly of the Southern Association of Colleges and Schools. We have to his immediate left Mr. Gordon Sweet of Atlanta, who is Executive Secretary of the Commission on Colleges. So far as we know these are the only two representatives that we will hear from and primarily we will hear from Dean Emmett Fields. Dean Fields, we certainly appreciate your coming. I will say to my fellow members of the Commission that when I first called Dean Fields he had planned his vacation for this week and I am sure that he has come here at personal sacrifice to himself, but we are indebted to you for coming and we appreciate your being here and we recognize you at this time for such statement as you desire to make and after you have made your statement, we would then like for members of the Commission to ask you such questions as they desire. Dean Fields.

Dean Fields: Mr. Chairman, members of the Commission, let me express to you my appreciation and the appreciation of my colleague, Mr. Sweet, for your invitation to appear today. We recognize the important responsibility your Commission bears and are happy to appear to give full information of the interests of the Southern

Association in current matters of issue in North Carolina. And let me say personally that North Carolina is a good place to spend part of one's vacation.

I have put in writing a full and accurate account of the interest of the Southern Association of Colleges and Schools, Inc., in matters related to "An Act to Regulate Visiting Speakers at State Supported Colleges and Universities"(H.B. 1395), so that a copy can be left with you after my testimony. With your permission, I should like to read the statement.

The Southern Association is a voluntary organization whose member institutions are united to preserve and foster education of quality in the southern region. The collegiate members, of which there are 411, hold membership in a body called the College Delegate Assembly, by vote of which they have agreed to a set of 11 major standards to which a college should conform if it is to be accredited by and hold membership in the Association. These criteria are set forth in a publication titled Standards for Colleges and cover such matters as organization and administration, the educational program, financial resources, faculty, library, student personnel services, physical plant, and others. The standards take account of the fact that institutions are of different types and sizes, with differing charter purposes.

While the standards are approved and promulgated by the College Delegate Assembly, the primary responsibility of determining compliance with the standards is borne by a smaller group, the Commission on Colleges, which is composed of 54 members

elected by the Association with representation from the 11 states served by the Association. It may create such committees as are necessary to this responsibility. By the By-Laws of the Association, the Commission is required to "prepare a list of member institutions which conform to the standards and a list of member institutions which do not conform to the standards and submit these lists for approval to the College Delegate Assembly at the Annual Business meeting of the Commission on Colleges." The annual meeting occurs in the week after Thanksgiving. The By-Laws also require the Commission to appoint an Executive Council which "will act for the Commission while it is not in session," subject to approval of the Commission as a whole. The Executive Council, as the name indicates, is also responsible for preparing the agenda of the Commission and for supervising such staff work as is necessary to the agenda. It is composed of nine members and is presided over by the Chairman of the Commission, who is also the Chairman of the larger body, the College Delegate Assembly.

The Southern Association took formal notice of the conditions imposed by the speaker ban law on state institutions of higher learning in North Carolina on March 8 - 11, 1964. On these dates the University of North Carolina at Chapel Hill was visited by a committee in connection with what is known as the Institutional Self-Study and Periodic Visitation Program of the College Delegate Assembly.

This program calls for each member college and university to make a comprehensive self-study of its activities each ten years. Conducted by administrative officers, faculty, students, and others associated with the institution, the study results in a written summary

of the institution's functions with evaluations of their strengths and weaknesses. Subject to such governing authority as pertains, the summary also sets forth recommendations for improvements and plans for the future. After the self-study is concluded, the institution is visited by a committee of administrators and professors from colleges or universities in other states. The committee evaluates the Self-Study, inquires into the institution's compliance with the published Standards for Colleges, offers such recommendations or suggestions as may prove helpful, and renders a written report to its parent body, the Commission on Colleges, which in turn submits a copy to the president of the institution. The purpose of the Self-Study and Periodic Visitation Program is to afford members an opportunity for institutional analysis in conjunction with expert consultation. Its intent is thus to aid their efforts to improve educational services.

The committee visit to the University of North Carolina at Chapel Hill on March 8 - 11, 1964, was in accordance with this standard procedure. Chancellor William B. Aycock had notified Mr. Gordon Sweet, the Executive Secretary of the Commission on Colleges on February 9, 1962, that the University would conduct the Self-Study in 1962-63. He asked that a visiting committee be scheduled for the spring of 1964 at which time it was expected that the study would be concluded. Subsequently, on January 6, 1964, Mr. Sweet notified Chancellor Aycock that the committee was appointed and would consist of 13 members from institutions in the states of Florida, Georgia, Louisiana, Missouri, Tennessee, Texas, and Virginia.

While on the campus, the visiting committee made wide-ranging and extensive inquiries in keeping with its responsibility under the Self-Study Program, and it issued a report that touched upon most aspects of the University's affairs. In connection with its inquiry concerning Standard Two of the College Delegate Assembly, "Organization and Administration," the committee took cognizance of the speaker ban law and the controversy it had caused. The relevant section of Standard Two is as follows: (Here I am quoting from the publication, Standards for Colleges.)

The responsibilities of the governing board include establishing broad institutional policies, securing financial resources to support adequately the institution's program, and selecting the chief administrative officer and, upon his recommendation, the other administrative officers of the institution. The governing board should not be subject to undue pressures from state officials or other outside political or religious groups; furthermore, the governing board should protect the administration from similar outside pressures.

Members of the University community were aware of the law,
(I am speaking still now of the visit of the Committee at Chapel Hill)
regarded it as a serious matter, and spoke freely about it. The committee received copies of certain documents including a Resolution of the Faculty Council of the University of North Carolina at Chapel Hill dated October 22, 1963, a statement by President William C. Friday to the Board of Trustees of the Consolidated University of North Carolina dated October 28, 1963; and a statement by Chancellor Aycock to the Board of Trustees, also dated October 28. Because the law in question applies to all state universities and colleges and not solely to the institution then being visited by the Southern Association committee, certain

additional documents were obtained. These include a Resolution of the Faculty Senate of North Carolina State of the University of North Carolina at Raleigh (as it then was titled) dated July 2, 1963; a Resolution of the Faculty Council of the University of North Carolina at Greensboro dated October 22, 1963; and statements of Chancellors John T. Caldwell and Otis A. Singletary to the Board of Trustees dated October 28, 1963. These resolutions and statements variously challenge the speaker ban as a violation of the principle of intellectual freedom and an abridgment of the authority of the governing board of the University. Also obtained by the Visiting Committee was a copy of a resolution passed by the Board of Trustees, October 28, 1963, which deplored the legislation as a "departure from the tradition" of the state of North Carolina. The resolution directed the Chairman of the Board to appoint a special committee - and in the language of that resolution - "to determine and implement measures to remove this legislative impairment of intellectual freedom and preemption of the authority and prerogatives of the Board of Trustees."

The official report of the visiting committee of the Southern Association of Colleges and Schools declared the committee to be "in accord with the position taken by the University faculty and administration," expressed deep concern over the controversy between the General Assembly and the Board of Trustees, and commended "steps aimed at corrective action" by the Board of Trustees and others. The final report was submitted to the office of the Commission on Colleges in Atlanta and a copy was sent to President Friday on May 11, 1964.

The Executive Council of the Commission on Colleges considered the report of the visiting committee at each of its next two regular meetings, the first in Atlanta June 18-19, 1964, and the second in Louisville at the time of the annual meeting of the Commission on Colleges and the College Delegate Assembly, November 30 - December 1, 1964. The Council viewed the matter as of serious importance with respect to the Standards for Colleges, all the more in view of the fact that the law was written in such fashion as to apply equally to all state colleges and universities. It took note of the indication in the report that steps were being taken toward corrective action, as also of the fact that the General Assembly would not again be in session until early 1965. At the second of these meetings, the Executive Secretary was instructed to notify President Friday that the Council was taking no immediate action but would maintain interest and concern in the subject. This was done in a letter by Mr. Sweet dated December 11. The Council also directed the preparation of a statement (this following language is from the minutes of that meeting) "censuring the speaker ban law for possible consideration at a special meeting of the Council in the spring of 1965, if subsequent developments should call for such a meeting." The latter step was taken in consideration of Standard Two, "Organization and Administration," earlier quoted, and also a section in the preamble of Standards for Colleges titled "Principles and Philosophy of the College Delegate Assembly in Accreditation." This section is as follows: "The Commission ... stands ready to protest in the name of academic

integrity, when the educational effort is hampered by political interference, or is in any way meanced by those who would subvert the search for truth." The "subsequent developments," alluded to in the directive were any which would indicate that the cause which placed North Carolina state institutions in conflict with the standards of the College Delegate Assembly was not being expeditiously removed.

In my role as chairman I prepared an initial draft of the directed statement and circulated it by mail to members of the Executive Council on January 22, 1965, and again with alterations on February 22. It was also reviewed by the legal counsel of the Southern Association - a firm in Atlanta. The statement was confidential at this stage, the eventual intent being to issue it to chief officers of state institutions in North Carolina as notice to them that the continued accreditation of these institutions was being placed on the agenda for consideration by the Commission, if such action should be voted by a later meeting of the Executive Council.

Subsequently members of the Council expressed to me the feeling, which I shared, that every opportunity should be taken informally to apprise responsible authorities in North Carolina of the concern with which the Executive Council viewed the matter, in advance of any formal action by the Council. Accordingly, Mr. Sweet and I twice came to Raleigh for conferences, the first time on April 26 and the second on May 16. Both meetings were intended to be with Governor Moore in his capacity as chairman ex officio of the Board of Trustees of the Consolidated University of North Carolina. But the Governor was ill at the time of the first visit so we were not then able to see him.

Instead we met with his designate, Mr. Edward Rankin, at the State Board of Higher Education in the office of Mr. William Archie, who had arranged the meeting. Mr. Archie was present as was also Mr. William Dees, Jr., chairman of the State Board of Higher Education. On the second occasion we met with the Governor in the Executive Mansion. Mr. Rankin was again present, as was Mr. Joseph Branch, on this occasion.

On the latter occasion I told Governor Moore of the deep and urgent concern the Executive Council felt for the North Carolina state institutions of higher learning and for the position in which they had been placed by the speaker ban law with respect to Southern Association standards for membership. I told him of the statement that had been prepared but not formally acted upon and said that, though the next regular session of the Executive Council was scheduled for mid-June, it was necessary under the circumstances to consider a called meeting at an earlier date. The Governor told me of his wish to do what was wise for the State of North Carolina and for its colleges and universities, and added that current feeling in the legislature seemed not to be generally favorable to repeal or amendment of the speaker ban law. He spoke of a plan to reorganize the State Board of Higher Education and also of his intention to ask the General Assembly to create a commission which would study the composition and powers of the Board of Trustees of the University. I told him that I had no way of knowing in advance of these developments what effect they might have on the problem at hand, or what position the Commission on Colleges or its Executive Council might take toward them. I promised to give the

Council a full report of our conversation. On this note we parted, agreeing to keep each other informed before making any public statement about our meeting.

Later on this same day, May 16, I determined to call a special session of the Executive Council for the earliest date which could be arranged and so instructed Mr. Sweet. A meeting in Atlanta on Wednesday, May 19, resulted. On this occasion the Council reviewed the evidence and proceedings to date, heard a full account from me of the conferences in Raleigh on April 26 and May 16, and passed a statement for issuance to the chairmen of the governing boards and chief executive officers of all state institutions of higher learning in North Carolina which are members of the Southern Association. The vote was 7-0, with one member abstaining because of the involvement of her own institution and another absent in Europe. It was agreed that the statement was to be sent by telegram, that copies would be subsequently mailed to all members of the Commission on Colleges as notice to expect the matter on the agenda of the next annual meeting, and that no release would be given to the press except as requested in confirmation of a release issued by others. Before sending the telegrams, I called the Governor's Mansion and read the statement to Mr. Rankin who received the call. I read herewith the full text of that action of May 19.

The Executive Council of the Commission on Colleges of the Southern Association of Colleges and Schools, Inc. in its meeting on May 19, 1965, approved the following statement for issuance to the chairmen of the governing boards and the chief executive officers of the North Carolina state institutions of higher learning accredited by the Southern Association of Colleges and Schools, Inc.:

The Executive Council of the Commission on Colleges of the Southern Association of Colleges and Schools, Inc. has maintained cognizance of developments related to "An Act to Regulate Visiting Speakers at State Supported Colleges and Universities" (House Bill 1395) since its passage by the North Carolina Legislature June 26, 1963, at the close of its last session. The Executive Council wishes to call attention to the Standards of the College Delegate Assembly of the Southern Association of Colleges and Schools, Inc. with respect to this matter.

The law in question prevents specified classes of persons from speaking at such institutions, regardless of the subject on which they might speak. In so far as the act removes from the governing boards of state institutions of higher learning in North Carolina their traditional authority to handle such matters with administrative discretion, it raises an issue of interference with the necessary authority of the boards.

A governing board must protect the integrity of the college or university under its charge in all areas vital to the purposes of the institution. For this responsibility it requires commensurate authority. The established principles and standards of the College Delegate Assembly of the Southern Association of Colleges and Schools, Inc. recognize this necessity and authorize the Commission 'to protest in the name of academic integrity when the educational effort is hampered by political interference, or is in any way meanted by those who would subvert the search for truth.'

The Council finds that such interference has occurred, with detrimental effect on the state supported institutions of higher learning in North Carolina. The Council gives notice that it will present its finding to the Commission at its next meeting at which time the Commission will determine the status of these institutions with respect to continued accreditation.

The foregoing is, Mr. Chairman, to the best of my knowledge, an accurate account from the time of the inception of the Southern Association interest in this case through the time of the formal action on May 19. The statement of that date speaks for itself.

If I may, I should like to make several additional comments.

The Executive Council has not questioned and does not question the right of the General Assembly of North Carolina to pass, amend, or repeal

any law it wishes, including the one which is the basis of the present controversy. The authority of the Southern Association extends only to its member institutions with respect to the conditions for membership and accreditation as set forth in the Standards for Colleges. As stated earlier, membership in the organization is voluntary. The members have freely participated in formulating the Standards and have embodied therein their combined experience and wisdom concerning sound principles of college and university operation. The membership has also established the procedures by which compliance with the Standards shall be determined. In the event a member institution gives evidence of failing to comply with one or more of the Standards, whether or not from causes within the control of the officers of the institution, it is incumbent upon the Commission on Colleges or its Executive Council to give notice to these officers that the issue is being placed before the Commission for a determination concerning continued membership and accreditation. In this way the officers of the member institution are made aware in advance that the issue is to be fully considered with opportunity for a hearing from them.

Established procedures have been followed in the present case. At no time has the Executive Council addressed itself to the General Assembly of North Carolina. Its action of May 19 was addressed to officers of the member institutions involved, with care that no unnecessary publicity be initiated by the Council. I believe the record shows that the Council acted deliberately, with due regard for the facts, and with attention to the normal processes of redress which might be expected to function within the state of North Carolina.

As the statement of May 19 shows, the issue raised by the Executive Council is whether the governing boards of the North Carolina state colleges and universities which are members of the Southern Association shall continue to have, as they did have before the passage of the speaker ban law, authority commensurate with their responsibilities. The Council has found that political interference with the authority of the governing boards has occurred, and it believes that the evidence for this finding is prima facie. It inheres in the language of "An Act to Regulate Visiting Speakers at State Supported Colleges and Universities." Thereby were the governing boards deprived of an authority they had theretofore possessed, namely, to set policy for such matters for the institutions under their responsibility. They were deprived of this authority without a public hearing.

The Council has also found that this act of interference has had detrimental effect on the member institutions involved. Virtually since the day of the passage of the speaker ban law, June 26, 1963, it has been the subject of much publicity and great controversy. Numerous protests have been issued against provisions of the law by university faculties, by chief university officers, by students, by governing boards, and by individuals sympathetic with their cause. Some of those protests were cited earlier in this statement, including the resolution of October 28, 1963, of the Board of Trustees of the Consolidated University, deplored the act as a violation of intellectual freedom and as an abridgment of the authority of the Board. As late as January 11, 1965, prior to the action of the Executive Council, the State Board of Higher Education, the coordinating authority for all

state universities and colleges, respectfully but urgently requested the legislature to repeal or amend the law.

Policy concerning visiting speakers is on any university or college campus a vital matter which reaches out to many aspects of the educational program and, for good or ill, affects the spirit of freedom in which honest and fruitful inquiry must take place. It is for this reason that the Principles and Philosophy of the College Delegate Assembly require that the Commission on Colleges be "dedicated to a firm belief in the rights of a teacher to teach, investigate, and publish freely, and in the rights of students to the opportunity of learning." It is for this reason also, as well as all others influencing the health and vitality of a college or university, that Standard Two of the College Delegate Assembly, earlier cited, requires that a governing board "should not be subject to undue pressures from state officials or other outside political or religious groups; furthermore, the governing board should protect the administration from similar outside pressures."

The resolutions of the North Carolina governing and coordinating boards earlier cited make it clear that the boards find it extremely difficult, if not impossible, to protect intellectual freedom on the campuses under the strictures of the speaker ban law. Thus far the pleas of the governing boards for redress have gone unresolved and have been met by opposition which reflects on the integrity of the boards and causes injury to the morale of many persons who are directly responsible for the conduct of higher education in North

Carolina. The Executive Council has concluded that higher education cannot function most effectively in the midst of this bitter spectacle, and that detrimental effects have ensued.

One more comment, Mr. Chairman, and this written statement is ended. The May 19 action of the Executive Council is not a final action. It is the first step in a continuing process and constitutes a recommendation to the Commission on Colleges that it determine the status of the affected institutions with respect to continued accreditation. The next step is up to the Commission, which will hear the case at its annual meeting after Thanksgiving next. Its responsibility at that time will be one of the most significant that an independent, regional accrediting agency can play. I respect the independence of the Commission, the Standards for Colleges against which it will judge the issue, and the important responsibility it will then exercise. I trust that you will understand I would not want to trespass upon that respect by entering in advance into speculation as to the nature of the determination it will make.

Chairman Britt: Dean Fields, we certainly appreciate your formal statement and according to our previous understanding we will now permit such members of the Commission who desire to ask you questions. I believe we will start from my left and recognize Col. Joyner for any questions he might desire to ask.

Col. Joyner: Mr. Fields, in asking you questions I hope that you will understand that I am attempting to discharge the duties that have been imposed on the members of this Board by the legislative action, that is the duty of full inquiry. I will ask questions about many things, I hope, if I don't get too tired that will attempt to give us or bring out information relative to procedures, events and positions. I hope that it will not assume the aspect of an ordinary cross-examination but, of course, I must ask some questions that appear to relate to things that would be in the minds of the proponents of the Speaker Ban Law because we must get both sides into this situation. I had intended to start chronologically at the beginning of your association and I still expect to get to that but I am intrigued by one question that I would like to preface by principal line of questionings. On the bottom of page 12 you emphasize what has been stated before. "It is for this reason also, as well as all others influencing the health and vitality of a college or university that Standard Two of the College Delegate Assembly, earlier

cited, requires that a governing board", I presume there you mean the Board of Trustees of the University.

Dean Fields: This means any governing board affected by the law.

Col. Joyner: Not the faculty or the administration but the Trustees -- the governing board.

Dean Fields: Correct

Col. Joyner: Again I resume the quotation "should not be subject to undue pressures from state officials or other outside political or religious groups." What do you include in the word "outside political or religious groups"?

Dean Fields: Those any bodies, Col. Joyner, which are not directly and immediately responsible for the functioning policies of the institution.

Col. Joyner: Then you would include in "outside political groups" the great body of the citizens of North Carolina and the sentiments that they have.

Dean Fields: I would not regard them as outsiders. Certainly not that. After all the institutions - - - (interruption)

Col. Joyner: Then you would not consider that what you call "pressures" and what I would call "expressions" from the people of North Carolina to the University of North Carolina is undue pressure and, therefore, not to be tolerated.

Dean Fields: Ask the question again, Col. Joyner.

Col. Joyner: You would consider the sentiment - if it can be determined the sentiment - of the great body of the people of North Carolina has not pressure from an outside group.

Dean Fields: Let me answer the question this way. We are speaking here about formal and actual authority for decision making and formulation of policy.

Col. Joyner: Right

Dean Fields: Now I would believe that a governing board of a state institution certainly ought to be responsive to - sensitive to - the feelings of as many persons in the state - citizens of the state - as it can be. But it must by the standards of the Southern Association be finally responsible for making a determination as to what the policy of the institution shall be. And I take it that that's what it was appointed for and that's why it's called the governing board. I hope that answers your question.

Col. Joyner: Then it would follow, would it not, that your organization would not countenance an act of the legislature which was in accord with the sentiment of the people of North Carolina if it gave direction to the Board of Trustees?

Dean Fields: That's a very difficult question to answer. I see the issue you are talking . . . (interruption very directly).

Col. Joyner: Is it your position that the Board of Trustees and the administration of North Carolina need not follow the expressed will of the people of North Carolina?

Dean Fields: It is my belief that they were appointed to set the policies for the Consolidated University and that they ought to be free to do that without interference which deprives them of authority for what must inevitably be a responsibility. The speakers that appear on campus - on many campuses - are numerous. They touch many affairs within the institution, the educational program and only those who are in close familiarity with the purposes of the institution and its working arrangements I think are in position to set that policy. Now I take it from the expression of the Board of Trustees of the Consolidated University of October 28, 1963, that they feel that their authority was infringed upon at that time.

Col. Joyner: I think I would have to read that answer to be firm in my conclusion but I think I can interpret it. So I will go now to another field and possibly come back to this. I can understand things better if they are an intricate and complicated set of events if I take them chronologically. Let's start at the very beginning. I am trying to find out what is the Southern Association of Colleges and Schools, how it got started, and what is its function. As I understand it and as I read the publications, it was initiated in a meeting held in Atlanta in the year 1895 upon the invitation and suggestion of members of the faculty of Vanderbilt University. Is that your information?

Dean Fields: This is a - - - Vanderbilt didn't have an influence in it. Let me say, Mr. Chairman, that in anticipation . . .

Col. Joyner: I'm sure a very fine influence.

Dean Fields: Thank you. Let me say, Mr. Chairman, that in anticipation of this and similar general questions I asked Mr. Sweet to prepare a couple of brief statements, one of which is a little history of the organization and another of which goes into the meaning in a general way of accreditation not with respect to North Carolina particularly, but with respect to any member of the Association. If I may, I will ask him now to

answer Col. Joyner's question by giving you those statements.

Col. Joyner: I am perfectly willing for you to read both. I suggest now that you read the one as to history because I'm going to get to accreditation later.

Sweet: As you have indicated, the Southern Association of Colleges and Schools was organized in Atlanta, Georgia, November 6, 1895. The charter members included the University of North Carolina with President George T. Winston and his representatives, the first president of the Southern Association of Colleges and Schools was President Winston.

Other charter members included Vanderbilt University, Chancellor James H. Kirkland and Professor W. M. Baskerville from the University of the South, Professor William Peterfield Trent, from the University of Mississippi, Chancellor R. B. Fulton, Professor R. W. Jones, from Washington and Lee University, Professor S. P. Moreland and from Trinity College, now Duke University, Professor Edwin Mims. Chancellor Kirkland of Vanderbilt was - - -

Col. Joyner: May I interrupt to say that I think of him as Eddie Mims. He taught me at the University of North Carolina and he is beloved throughout this State.

Sweet: Yes sir, I would have expected it. Chancellor Kirkland of Vanderbilt was the first Secretary-Treasurer from 1895 to 1908. The purposes of the organizational meeting as stated were: 1. To organize southern schools and colleges for cooperation and mutual assistance. 2. To elevate the standard of scholarship and to effect uniformity of entrance requirements. 3. To develop preparatory schools and cut off this work from the colleges. Incorporation of the Southern Association of Colleges and Schools as a non-profit corporation without capital stock was authorized by official delegates at the annual business session of the Association on November 29, 1962, in Dallas, Texas. The Charter of Incorporation was granted by the Superior Court of Fulton County, Georgia, on June 20, 1963. The Charter of the Southern Association of Colleges and Schools, Incorporated states the following as the purpose of this organization: These are also given in the proceedings, copies of which members of the Commission, Mr. Britt, I believe, received earlier:

Said Corporation is organized exclusively for educational purposes and its object is to improve education in the South, to exercise its leadership and through the promotion of cooperative efforts between schools, colleges and related agencies.

Without limiting the generality of the foregoing, the Corporation shall have the following specific powers and purposes: (a) to identify for local, regional, national and international purposes those schools and colleges of acceptable quality to be designated as accredited institutions. (b) to work with agencies concerned with the improvement of education in other regions and other countries. (c) to promote through positive action cooperation and articulation among individuals, institutions, groups and agencies interested in education in the South. (d) to operate programs of action that are designed to bring about specific and concrete improvements in educational practice. (e) to preserve the integrity of member schools and colleges and serve as a voice for the profession stimulating desirable developments and speaking against intolerable or threatening conditions. (f) to discover and disseminate information bearing upon the solution of important educational problems. (g) to encourage and strengthen local responsibility for schools. (h) it shall also have all powers of authority generally conferred on non-profit corporations under the laws of the State of Georgia not inconsistent with the purposes set above.

I will not go through the following but of interest perhaps to you would be that in 1895 there were six senior college members; there are now 274 senior colleges and universities. Junior colleges were first admitted to membership in 1925 with two members; there are now 133 members. There are also several special purpose institutions. By vote of the Association a commission of institutions of higher learning was created in 1917 and a set of standards was drawn up. In 1921 the Association adopted formally a complete set of standards for colleges. There were 39 members on the commission on institutions of higher learning in the early years dealing with all matters pertaining to the colleges, reports, new members, standards, etc.

The membership of the Commission on Institutions of Higher Learning now called the Commission on Colleges has been enlarged over the years, first to 45 and then in 1957 to 54 as now constituted. The responsibility of determining standards of evaluating institutions that are making all decisions regarding policies, procedures and membership has continued through the years with the representatives who the colleges have elected to the Commission on Colleges and then finally with the colleges themselves; that is a brief statement of the history as I gleaned it from the other documents.

Col. Joyner: Well, I'll get back to the origin. Originally the charter members were two institutions from North Carolina, two from Tennessee, one from Virginia and one from Mississippi. Do they still retain their membership -- all six of them?

Sweet: Yes, sir. Well, I say "yes, sir". I mentioned Trinity College which, of course, is Duke University.

Col. Joyner: That's Duke University.

Sweet: Yeah, that's Duke University.

Col. Joyner: And, of course, the institution has grown greatly. The members, as I understand it, are voluntary members and the membership of the Association consists of the institutions -- the institutions are the members. I believe your by-laws provide that at the meeting of the assembly the vote of each institution shall be cast by its president or a proper delegation of that. I believe it also provides that all officers and all of the functionaries shall be people either of the teaching profession or in the administration staff. Is that correct?

Sweet: Yes.

Col. Joyner: There is no provision for representation in the college of any member of any Board of Trustees.

Dean Fields: That is correct. Board members have been invited to a good many of the programs, but

Col. Joyner: Or any other member of the public.

Dean Fields: They could vote for a college in the college delegate assembly under that provision you just quoted -- that the vote shall be either by the president or by a designated person.

Col. Joyner: Well, has there ever been an incident of a designated person being a person other than a member of the teaching or administrative staff?

Dean Fields: I do not know.

Col. Joyner: Now I would like to explore briefly the question of similar organizations in other parts of the United States and the relation between the Southern Association and those other organizations. Can you give me any information about that?

Dean Fields: I can, Mr. Chairman, if I may comment briefly and then ask Mr. Sweet to add to what I might say. There are six regional accrediting associations, the Southern Association

being one of these six and as far as I am aware they include all 50 of the states without any overlapping areas of interest. They are independent organizations with a certain clear set of similarities and certain differences in the way they proceed. I dare say the similarities are far more numerous than the dissimilarities and basically they are all regional accrediting agencies. Now they have affiliated themselves within the last - I guess it's two years now - in a federation of regional accrediting associations.

Col. Joyner: The last two years?

Dean Fields: The affiliation is two years old I believe as of this fall. It is called the Federation of Regional Accrediting Agencies.

Col. Joyner: I noticed in your budget for 1964-65 there was a substantial item of contribution from your Association to that affiliated organization. Go ahead.

Dean Fields: That was set up - if I may add since you did note that - as a provision in the case the funds of that magnitude were required. They weren't required in the first year of the operation of the Federation. Now if you want more detailed information than this I just have supplied, I'll have to turn to Mr. Sweet who sees the other executive secretaries on occasion

and knows more intimately than I their interworkings.

Col. Joyner: I am interested before we get to that into the form and the nature of that Federation. Is there anything in writing? You have minutes, I presume of course.

Dean Fields: Yes.

Col. Joyner: You are members of a confederation. Could you furnish us with copies of the initial instruments of that confederation and the extent to which there is unity of action.

Sweet: We could because they have released the statements. We do not have that material here.

Col. Joyner: If you will . . . it I would like to In the meantime, can you tell me as briefly as you can what are the fields of uniform action or unity of action by the federation? Why the federation?

Dean Fields: If I may I'll ask Mr. Sweet, Mr. Chairman, to talk about the inception of the federation.

Sweet: The basic purpose of the federation is to develop at the present time in an informal way as much understanding and sympathy as possible between the activities, the policies of the six regional associations. They do . . . This organization does not set standards; it does not apply standards. Each

of the six regional organizations, especially the Southern Association of Colleges and Schools as with any of the regional associations is quite anxious to preserve its own identity, feeling that there are regional issues, regional trends, that need to be recognized. The Federation believes, however, that there are certain areas in higher education on which there could be national study - perhaps some general national policy - so that it will serve the basic purpose of the Federation which is to develop an understanding and particularly on the part of the public of the relationship between the regional associations. It is not, however, an accrediting body.

Col. Joyner: Each of the organizations is an accrediting body?

Sweet: Each of the six which we have named, yes.

Col. Joyner: Is there an understanding either in writing or tacit understanding that one of those other accrediting organizations will accept your accreditation and will accept those students that come from your members and those only?

Fields: I think I can answer that and Mr. Sweet can correct me if I'm wrong in a detail. There has existed for much longer than the life of the Federation an understanding between the six when they had no formal connection between them a compact of interchange. This certainly means that one association will respect and recognize the accreditation of another association. I would have to say that I'll have to ask Mr. Sweet to answer the other part of your question..

Joyner: Let me withdraw that for the time being. I'll come back to that.. I want to get to this before I've lost it. What was the relative development of the various accrediting organizations? In other words, in 1895 when the Southern Association was started, had the others been operating for some time or what was the

Fields: This I cannot answer. Yes, here it is, Mr. Sweet can give you that information.

Joyner: I'd like to get that information please.

Sweet: In 1885 the New England Association of Colleges and Secondary Schools was founded. That was 1885 - this was followed by the Middle States Association in 1889, the North Central and Southern Associations in 1895.

Joyner: The North Central?

Sweet: North Central, yes. The Northwest Association in 1917 and the last of the regional associations - The Western College Association in 1924.

Joyner: That's very interesting development. As the country grew they seemed to follow the growth of the country. Of course I don't intimate that either of you gentlemen's recollection goes back even nearly to 1895, but--and mine just does, just barely. From your study of history the situation in 1895 was that as faced by the public there were few colleges and fewer preparatory schools--at least maybe not fewer--but there was a great dearth of preparatory schools.

As I understand one of the objectives and a very fine major objective of your association was to improve the preparatory schools and improve the preparation for college at the same time that you are attempting to lift the level of the education in colleges. That's your understanding?

Fields: That is correct.

Joyner: Now to get to the question of accreditation. As I understand it, and correct me if I'm wrong, a major problem if not the major problem is the question of the recognition by College A of an A. B. degree, say, or M. A. degree given by College B. Am I correct in that?

Fields: This is one of the meanings, yes.

Joyner: Now it seems obvious to me and I would like to know if you agree with me there were at least two problems that seemed to require accreditation. No. 1 -- when a student having graduated at College A applies to College B there would be something that College B could safely rely upon -- a certificate of merit to the original college, in substance. Is that correct?

Fields: Yes.

Joyner: The other thing that would be tremendously important, particularly at that time; I presume that colleges were springing up and private institutions were springing up - that when a parent and a child were considering what university to attend they needed some guidance and accreditation would give them guidance.

Fields: It would serve that purpose, yes.

Joyner: Were they not the major objectives?

Fields: Well, I speak from a less historical study, Col. Joyner, than this question would require for a full answer, but my distinct understanding of the period in which the Southern Association was created was that the region had recovered but slowly from a devastating war of 35 years earlier and 30 years earlier, that there was little education of any sort the region could depend upon for its own advancement, that there were, therefore, in the region relatively few people compared with other regions, in particular the northeast of the United States, who understood with any great insight, what a college or a good preparatory school was. That there was therefore the necessity of developing a sense of leadership and a sense of standard. I would say, now that I have had this much chance to think out loud, in response to your question that the two grounds you state puts the matter a bit narrowly.

Joyner: A bit what?

Fields: A bit narrowly.

Joyner: I didn't mean to say they were the only considerations.

Fields: The big need was to develop a set of standards which would at once elevate the practice and tone of education in the South and at the same time provide a mechanism by which this could continue to be elevated or adjusted as conditions of a new time might require.

Joyner: And of course uniformity of standards was important.

Fields: Uniformity of standards, if this is not understood to be some kind of a mechanical and quantitative consideration - a qualitative sense of standard, yes.

Joyner: Then -- I still am talking about the origin of this movement -- at the beginning accreditation was concerned very importantly with the quality of the instruction of the student.

Fields: That's correct.

Joyner: And the quality of the teaching given to the student, isn't that still the very important issue?

Fields: That is certainly very important.

Joyner: The most important issue?

Fields: Well I find difficulty making distinctions between 11 standards and these are all set forth in that booklet I spoke of "Standards for Colleges" and I don't know how to think about one without another.

Joyner: I don't purport to be an expert in that standard. I believe it's in (interruption) . . .

Fields: That's correct.

Joyner: . . . and it's also set forth in each of your annual proceedings, but isn't it a fair conclusion to say that every one of those standards, or practically everyone of those standards, are directed right squarely to the quality of the instruction.

Fields: All of it, if it amounts to what it is intended to amount to, has its final and most meaningful effect there. Yes, that is correct.

Joyner: Your accreditation now means to me as a grandfather that if I advise my grandchild to go to a certain accredited college I can be reasonably sure of the quality of his instruction.

Fields: Yes.

Joyner: And it also assures the University of North Carolina that if a graduate, an AB graduate from Vanderbilt comes to the University of North Carolina as a candidate for a masters degree that that candidate . . they can rely on that candidate having a reasonably sound foundation.

Fields: That is correct.

Joyner: The quality of instruction is still very important.

Fields: That is correct.

Joyner: Now I have examined - with what detail I could in the time that I had - the proceedings of the 68th Annual Meeting of the Southern Association of Colleges and students in December 1963, and they give in there the proceedings, as I understand it, of the Commission on Colleges. I found no reference in that to the University of North Carolina or to the Speaker Ban Law. Am I wrong in that? Or can you say?

Fields: I believe you are correct, Col. Joyner.

Joyner: Now again in December, 1964, there is a verbatim relation of minutes of the proceedings of the College Association, I find nothing in there about the University.

Fields: You are correct again.

Joyner: Now your accreditation as I understand it is really the list of your members. I mean that's the result of accreditation - you issue no certificates to an organization. You merely list them as being approved members and that listing is in this book?

Fields: Uh-huh.

Joyner: Have you got the 1964 proceedings there? I want to ask you one or two questions about that. Will you turn to page 65 - that is the beginning of the listings of the accredited colleges as of December, 1964, and if you will follow it I will read it and ask you to correct me if I am wrong. I'll ask one or two questions.

"Explanations of Data: Institutions are listed alphabetically by states with the address and name of chief executive officer. Accreditation: Dates of initial accreditation and most recent reaffirmation of accreditation are given. Enrollment is that which was reported at total fulltime or equivalent students for the preceding fall. Symbols indicate highest level of degree offered. No. 1 symbol is Associate Degrees Certificate. No. 2 symbol is Bachelor's Degree only. No. 3 is Bachelor's and Masters Degrees, No. 4 is Bachelor's, Masters, and Doctors Degrees, No. 5 is Graduate Degrees only. The No. 4 would include No. 5 would it not?

Fields: No. 4 is a designation of an institution that offers all those degrees.

Joyner: Offers all of them?

Fields: Yes.

Joyner: Therefore No. 4 is the highest accredited institution that you have from the standpoint of the breadth of its coverage?

Fields: Yes.

Joyner: Now then, will you look at North Carolina beginning on page 71. As I roughly calculate it, there are some 50 or 52 colleges listed there as accredited in North Carolina. Would you look down there and read me those which are accredited with the highest symbol, No. 4. That is, the ones with the broadest coverage?

Fields: You'd like me to read these?

Joyner: Yes.

Fields: Duke University, University of North Carolina at Chapel Hill, North Carolina State of the University of North Carolina in Raleigh, University of North Carolina at Greensboro, and that's it.

Joyner: That's all. So of the 4 out of say some 50 accredited colleges in North Carolina--of the 4 containing the highest rating or the broadest scope of coverage, of those 4--three of them were the branches of

the University of North Carolina.

Joyner: And that condition represented a true condition I take it as of December, 1964.

Fields: Uh huh. Let me clarify or reject, if I may, speak directly, one term you used--"the highest rating"--I am sure you didn't mean

Joyner: Representing the broadest coverage I'll say of degrees.

Fields: The most complex in general institutions. These are universities. Now with that qualification your question, the answer to that is "yes."

Joyner: Although the speaker ban law was passed in June, 1963, by the General Assembly, by December, 1964, it had not seriously impaired the quality of the teaching in that university?

Fields: I think the correct way to understand that, Colonel Joyner, is that the investigations and determinations of the arms of committees of the organization had not yet reached a conclusion. The last determination would therefore stand in the proceedings as the determination or the designation for that institution.

Joyner: Is it not correct that within the last sixty days or thirty days there has been a news release that the graduate school of the University of North Carolina was one of the finest, if not the finest in all of the South?

Fields: A news release from whom?

Joyner: Well, it's a news release on July 24, 1965, News and Observer, Page 18, "The Graduate Program ranked the top in the South, UNC Chancellor Paul Sharpe told the Raleigh Kiwanis Club, preliminary report by the American Council of Education."

Joyner: Do you know anything about that report?

Fields: I was not aware of that report.

Joyner: What is the American Council of Education?

Fields: That is--of course you'll have to ask them if you want the authoritative answer about what they are.

Fields: I am fully aware of their existence and that they maintain an office in Washington. This is a Council of American Universities and Colleges and they do a great variety of things on behalf of those institutions, including keeping them posted on federal law as it affects higher education.

Joyner: Let me branch off a little--I may come back to that. Let's talk a little about accreditation. As I understand it the members of your association are universities or colleges which have voluntarily applied for membership and which have been studied by your organization and its committees to ascertain whether they can qualify for membership. And if they do qualify for membership

they then are accepted and become members with right to attend the meetings and to vote. Incidentally, they support your association. Do you have a budget of some \$250, 000 or \$300, 000 a year?

Fields: This is for the whole association, not just for the Commission itself. I am not familiar with details.

Joyner: How is that supported? I am sure it is supported by modest contributions by the colleges and by the schools, particularly colleges I am interested in, what is their membership contribution based on?

Fields: Based on size. Gordon do you have the schedule you can indicate? See size and type of the institution. Schedule of dues to be paid by member senior colleges and universities, annual membership fee senior colleges, fees based upon enrollment, and then these are classified by categories 0-499 for which the annual fee is \$262.50, and 500-1,499 enrollments is \$350, and 1,500 enrollments through 2,999, \$437.50.

Joyner: I am not questioning the modest nature of the contribution. I am saying that they contribute as they're contributing members?

Fields: That's correct.

Joyner: Now, you also, a part of your function is to determine when a college has deteriorated to such an extent with respect to certain standards that they no longer can qualify for accreditation. And if

that is determined and that is published, I presume that immediately they lose their membership.

Fields: Repeat your question.

Joyner: They lose their membership when you determine that they can no longer be accredited?

Fields: That's correct.

Joyner: Well, really then, the determination of failure of accreditation amounts to the expulsion of a member. Amounts to the same thing. Incidentally, the final vote on that is taken by the full association, is it, of colleges?

Fields: This is taken by the College Delegates Assembly.

Joyner: Well, now, tell me a little about--and I'm going to hurry as fast as I can--because I don't want to take up all this time, but I'm so interested in it, what's the result of loss of accreditation? What would happen?

Fields: What is the result of loss of accreditation? Mr. Chairman, this is not an answer, not a question that I can give the complete answer to.

Joyner: Have you ever observed a case?

Fields: Loss of accreditation? I have not myself, personally, observed this.

Joyner: I am very interested as to what would be the consequence, the inevitable consequences, or the probable consequences of loss of accreditation.

Fields: With respect to the association itself, I suppose, Colonel Joyner, that expulsion from the membership speaks for itself as to its effect. They may no longer attend the meetings, except by re-application.

Joyner: I would question that--I would say that expulsion from membership speaks for itself in the light of the reason for the expulsion?

Fields: Yes.

Joyner: Then I'll agree.

Fields: I stand corrected in that. The members, the other members, no longer have the guidance which they once had by virtue of membership of the expelled member, which gives them their clues as to whether or admit their students. Now, I'm not saying that they would automatically reject all of the students who might apply to them on transfer from the expelled member. You should not understand me as saying that they would reject them. What they would have to do is to make an independent evaluation in connection with each student so that there would be no routine mode for making their determination, you see. And in times of great pressure when they--when institutions



cannot accept all of the students who apply to them in many instances, this may well mean that those who come in by routine crowd out--take up all places.

Joyner: Do I interpret that to mean this, in other words, that the acceptance by a university, a member of your organization, of a student of an organization which had lost its accreditation would not bring the accepting institution into disfavor with your organization?

Fields: Well, the answer may or may not be "yes" to that. If a special determination were made in the case of an institution which flagrantly ignored its new necessity of making individual inquiries into student applications, that is to say, that if it went on without any change in its routines, then this might provide cause for an inquiry by the Association, but there would be no necessary penalty on the member still in the Association, if I understand correctly.

Is that correct, Mr. Sweet?

Joyner: Let me put your hypothetical case that may occur. Suppose accreditation should be withdrawn from the University of North Carolina at Chapel Hill. And suppose a graduate from Chapel Hill applied say, to Clemson University, for a master's degree. And Clemson University made an independent determination and said in that independent determination that it found as a fact that accreditation was withdrawn solely because the Speaker Ban Law was permitted to remain on the books, and they found as a fact that that had not

impaired the teaching that that young man had received, and therefore, accepted him, irrespective of that. Would that put that organization in disfavor with your group?

Fields: Clemson University in this hypothetical case?

Joyner: Or any university?

Fields: No, I think it would not. In other words, we would not issue a directive to them that they should or should not admit students from the University of North at Chapel Hill, follow still your hypothetical case.

Joyner: Let me put the shoe on the other foot. There is no obligation on "X" university to accept a student from another accredited university, is there?

Fields: No.

Joyner: And a rejection would not put them in disfavor?

Fields: No obligation incurred by membership in the Association.

Joyner: Irrespective of accreditation, any member university of your organization would be fully free to appraise each applicant on his own merits?

Fields: Correct.

Joyner: Just one other thing--I think I'm through then. Go back to my first question, and as I interpret your position, because you have not mentioned the word Communism in all of your testimony, or Communist, your sole position is that the legislature of North Carolina has wrongfully invaded the province of the trustees of North Carolina in permitting, in enacting, this statute and permitting it to remain on the books?

Fields: That's correct.

Joyner: I think that's all I have. Thank you very much. I hope I haven't taken too long.

Britt: Thank you, Colonel Joyner, for your questions and Dean Fields and Mr. Sweet for your answers. I can now see that we're going to run on probably until 12:30, possibly a little later than that. I believe it would be in order at this time to take about an eight minute break. So at exactly ten minutes until twelve o'clock we hope (ten minutes until twelve o'clock by the clock on the wall) I hope that the members and Mr. Sweet and Dean Fields will be back in place.

Senator White: (interruption) nor will I be able to be here tomorrow, the reason is that because of a commitment I made before this honorable Commission was even appointed, I have to be in Lincolnton tomorrow. I have to be there tonight by six o'clock and it's a good long way. Now, the only thing I want to say here at this time is that I want to be heard at a future session of this Commission. And that's not the only thing, that's one thing I want to say. The other thing is that I want to say that I will ask to be heard as a proponent of this wholesome law, co-called Communist Speaker Ban Law. I want to say further that I think it should stay on the books, that I am not fearful as to what would be the results of "disaccreditation" if that's a good word, nor do I expect a general exodus of professors from the University of North Carolina which will affect the eminence of that institution. Mr. Chairman, thank you very much.

Britt: Thank you, Senator White, and you will certainly have an opportunity to be heard later, at a later session of this commission, possibly the early part of September.

Now, at this time I would like to ask, please, that Dean Fields and Mr. Sweet come back to the platform and to answer questions from other members of the commission. Since I had started to my left, I now recognize the distinguished representative from Jackson County, Mr. Lacy Thornburg, for any questions he might desire to ask.

Thornburg: Dean Fields, at arriving at the decision that culminated in the sending of the telegram of which we have copies in this book, would you describe briefly the manner in which the hearings were held and

who was called before the committee for hearing?

Fields: Mr. Thornburg, I have summarized the full proceedings in the prepared statement that you heard earlier, and copy of which you have. The basic document was the report of the visiting committee, which was the first formal look the Association gave at the problem. The two meetings of the executive council alluded to in that document, one in the summer in June in 1964 and the other in November and December, were the discussions which were basic to the matter, but which resulted in no immediate action.

Now there were communications with persons in North Carolina as indicated in that statement. You used the word "hearings," did you not?

Thornburg: Yes, I asked if any were held.

Fields: There were no hearings of the sort that would ask everybody to come to Atlanta and testify on this situation, if that is the sort of thing that you are interested in.

Thornburg: Were any proponents of the law or members of the General Assembly heard or requested to be heard before your action was taken?

Fields: No, we did not consider in placing the matter before the Commission on colleges, that we had any authority to request testimony from members of the General Assembly.

Thornburg: Did you hear from any institutions other than the University of North Carolina or its branches?

Fields: We had conversations with members of the State Board of Higher Education which I have understood was the coordinating authority for all of the state institutions.

Thornburg: I have heard discussed the possibility of the various institutions of higher learning pulling out from the Southern Association and forming their own accrediting association. Would that have any detrimental effect to your organization or to these institutions themselves assuming they adopted the same or similar standards?

Fields: This is a request for me to comment on a set of facts which don't exist and I think I'd better not try. I'd be making speculation, Mr. Thornburg.

Thornburg: I notice in your statements there, you make several statements indicating that there should be the right of the teacher to teach, investigate, publish freely and the right of the institution or students to the opportunity of learning, etc. I am sure you would agree that with that freedom would go some degree of responsibility. You wouldn't expect that to be unbridled, I take it.

Fields: That is absolutely correct. Our contention is simply that authority should be commensurate with responsibility and those words we have used consistently in our utterances.

Thornburg: Was this -- I believe you stated that this visit to the university campus was that your first confrontation with the fact that the law existed or had it been called to your attention before that?

Fields: I did not visit the university campus in the 1964 visiting committee procedure, if you meant to imply that by the way you worded the question. I was not a member of that committee. My first knowledge of it had been prior to this time and it came to me as it did, I dare say, to hundreds of other persons in southern states by word of mouth from North Carolinians as they appeared at meetings and were met by persons in other states. This preceded formal interest which was created by the visiting committee. As a matter of public knowledge, the law was much in the North Carolina press and I think understandably persons outside of the state became individually aware of the law.

Thornburg: In withdrawing accreditation from an institution that has previously been listed as in membership, do you normally give the institutions a chance to be heard before the committee before making a recommendation of that sort?

Fields: Yes, and as I said in my opening remarks, this is a point, this is a consideration in the issuance of statement of May 19, so that persons affected, the officers of the institutions affected, would have advance notice that the matter would be given due consideration with an opportunity for hearing from them.

Thornburg: That would mean a hearing on both sides of the issue, is that correct?

Fields: Yes.

Thornburg: Full hearing? Is what you propose?

Fields: Yes, a full hearing.

Thornburg: Now I take it from the content of this telegram that definitely the accreditation of our institutions of higher learning by your association is threatened by the continuance of this law on the books, is that correct?

Fields: Repeat the question.

Thornburg: Is there any real threat to the continuing accreditation by your association of our institutions of higher learning as a result of this law?

Fields: Well, I think the May 19 statement speaks for itself to that point, Mr. Thornburg. If you ask me now to try to guess how the commission will determine the matter, I would not wish to do so because this would be disrespectful to the independence of the commission.

Thornburg: Well, would you care to comment on what you expect the committee to recommend?

Fields: No, I would not comment on that.

Thornburg: Would you care to comment on what you personally would recommend?

Fields: No, I would not comment on that. That least of all, Mr. Thornburg.

Britt: It has been requested that Mr. Thornburg repeat that question. Some of the members down here did not catch it. Will you repeat it again?

Thornburg: I asked him if he cared to comment individually and he stated, "No."

Fields: You have to be aware that I will preside at the session of the commission which hears this matter and will preside also at the meeting of the college delegate assembly following that meeting, and which will hear the action of the commission, and I do not intend to violate the role of the chair in advance of that time.

Thornburg: I was taking particular note of the fact that on page 11 in your statement you indicated that the state-supported colleges and universities saw this law passed without a chance or opportunity to be heard at a public hearing and I was simply wanting to clarify the fact that you, before withdrawing or recommending withdrawal of accreditation, would avail them of this same opportunity.

Fields: May I respond to that question, Mr. Chairman?

Britt: Yes, sir.

Fields: This is not a final action. The final action will be taken by

the commission. At some point an action has to be initiated. Now there is a sharp question in my mind as to whether the full hearings, which you seem to suggest we should have conducted, are necessary for that step. Certainly the full hearings will be not only permitted, but required, when the commission hears the matter after Thanksgiving.

Britt: I believe at this time for fear of maybe running out of time and not recognizing the distinguished lady on our commission, I am going to defer at this time for about eight minutes of questioning. We will try to divide the remainder of the time among the members., Mrs. Swindell--

Swindell: Thank you so much. Let me ask you, Dr. Fields, are you saying at your meeting in November it will be discussed but no definite decision will be made?

Fields: You mean November next?

Swindell: Yes.

Fields: No, I am not saying that.

Swindell: Well, are we to expect then that you will take action on it?

Fields: I expect the matter to be acted upon by the commission in its next regular meeting.

Swindell: In view of the fact that this committee is meeting and deliberating and trying to find some solution to the problem?

Fields: Yes, in view of that fact. I said earlier to a question Mr. Thornburg asked, which was, "Did I care to comment on what our executive council will recommend." We do not and have not this time prepared such recommendation, partly in deference to the fact that this study commission is in session, so the time for us to prepare a recommendation is a time when we will have available to us all of the facts that may be made available in advance of the next meeting.

Swindell: Well, wouldn't the accreditation board or your board who is considering this, give consideration to the efforts that are being made now to find some solution to this problem?

Fields: I am sure they would recognize and take keen interest in the existence of the study commission.

Swindell: Thank you so much. Well, let me ask you another question. If the law were amended to permit non-political speeches by so-called Communists, scientists and the like, would this still threaten the accreditation of the university?

Fields: Let's hear the first part of your question again.

Swindell: All right, if the law were amended to permit non-political speeches by so-called Communists (I never heard one admit he was

one yet, but just the same) scientists, etc., would this still threaten the accreditation of tax-supported colleges?

Fields: Well, that's a good question, Mrs. Swindell. It requires me, if I'm to answer it, to comment again on a set of facts which do not exist. Now we have given very careful and extensive consideration to the facts that do exist, and I think our statement of May 19 has made it clear the issue that we see, which is infringement of the authority of the governing boards to set policy over this matter of speakers on the campuses. I make no further comment than that in answering your question.

Swindell: Well, then let me ask just one more, then I'll give up. If the Board of Trustees made some guide lines and rules and regulations, that more or less included just this: speakers designated political groups, speakers so-called Communist political speakers, would not speak on a university campus. But for the sake of argument, cultural and scientific speakers of any political thinking could speak, how would your accreditation association view that? Now that action would be taken by the Board of Trustees.

Fields: Here again you are asking me to comment on a set of facts that don't exist. I cannot do this, speaking for the executive council, since it never has considered these facts. But...

Swindell: It never has had an occasion like this, or a question like this to arise?

Fields: No, we have not. I would only say this, that we have at no point insisted--I hope this is abundantly obvious to the study commission--we have at no point insisted that Communists be required to speak on university campuses.

Swindell: Well, that's the reason--the only reason I brought the word in is because it was in the law. Accreditation is what you are interested in, I know. Thank you so much.

Britt: At this time we will revert back to my left and recognize Mr. Ben Fisher for seven or eight minutes if he desires that time.

Fisher: Mr. Chairman, I have only one or two questions. Dr. Fields, there has been considerable question in the minds of the public and of the press, and in a way we have touched on this question before, but some have felt the Southern Association entered into the picture rather late. It is my understanding from reading this document that the Southern Association has been concerned about this matter almost from the beginning. Is this correct?

Fields: Yes.

Fisher: Then the other question that I wanted to ask, Colonel Joyner raised the question about this lapse in 1963 and '64, and raised the question that nothing appeared in the minutes of your meeting. Now is this not in deference to your concern for the university and the hopes that maybe this would be worked out

without any action from your association?

Fields: That was certainly in our minds. As I tried to indicate in my opening statement, there were indications that we thought that steps of a corrective character were taking place, and so that realization, or that belief acted as a fact against an action on our part until this were established not to be the case. In other words, as long as it was strongly indicated that the issue would suddenly--would soon--disappear, we had no reason to act. Then subsequent to our visits to North Carolin in which the common testimony was that, although there might still be an amendment to the law in the 1965 session of the General Assembly, this was by no means clear, you see. With respect to this question about the lateness of the association in acting, if it was late, I could only say this, we acted as quickly as investigations and deliberations were concluded, and we did not act before our investigations and deliberations were concluded.

Britt: I recognize Mr. Charles Myers for any questions that he might desire to ask.

Myers: I have only a brief question of fact to clarify for my own knowledge here. As I understand it, in answer to the question of Colonel Joyner, you say there has been no specific example of loss of accreditation under similar circumstances as are existing in North Carolina?

Fields: There has been in the history of the Association examples of loss in accreditation and I think probably the most sensational such instance was when in Georgia, back in the Talmadge days, in which he had taken personal action as governor which respected the personnel of the state system and disaccreditation. If my readings of this matter is correct--did take place. Is that correct, Gordon? Now there was also an instance of something vaguely similar to that in Mississippi in the days of Theodore Bilboe. Disaccreditation does not happen with great frequency in the Southern Association, but it does and has happened.

Myers: Could you speak to the point of whether in the other councils, the other six groupings throughout the country, there has been any loss of accreditation under broadly similar circumstances where the freedom or forum of speakers on a campus were prohibited by....?

Fields: I do not know. I can't answer that question. Maybe Mr. Sweet can. He says he cannot either.

Myers: Thank you, sir. That's all I have.

Britt: Thank you, Mr. Myers. This time I recognize Representative Zollicoffer for any questions he might desire to ask.

Zollicoffer: You mentioned there were six regional accrediting groups such as this Southern Association. Are all of these

you might say the greater or outstanding universities such as Harvard, Yale, Notre Dame, are they members of regional groups?

Fields: As far as I am aware, and I have been told that at one time one of the institutions you named, I will not name it, figured that it did not need accreditation, but I've also been told that it subsequently changed its mind.

Zollicoffer: So as I understand it, all of the greater universities in the United States are members of these regional groups and are accredited.

Fields: I know of no instance to the contrary.

Zollicoffer: I notice--do you know of any major institution that is not accredited, not a university but a college?

Fields: I don't know of any. Do you any, do you Mr. Sweet?

Zollicoffer: I notice in your proceedings that accreditation was re-affirmed at Chapel Hill in 1964. Yet I notice Duke doesn't show any date when its accreditation was re-affirmed. Why - why was it re-affirmed?

Fields: This is a result of the relationship between the institutional self-study program. I believe I'm correct in saying this and the method of posting these results. You see, each institution goes through this program each ten years. Not all of them obviously in every year, nor are all done in a single year, but they're scheduled

over a ten year cycle so that re-affirmation of accreditation may come to one institution in one year and a sister institution or nearby institution five years later, depending on that cycle. Have I stated the facts here correctly? Duke University, I am told, is now in a self-study and will be visited, I believe, in the fall.

Zollicoffer: Let me put a hypothetical to you. You may not want to answer it, but suppose the Board of Trustees had adopted this bill that we have under consideration instead of the Legislature. The Board of Trustees of the University of North Carolina had adopted such period without any legislative action at all just the Board of Trustees did it and not the General Assembly. Would we be faced with the same problem?

Fields: No, not the same problem. It would be changed at least by the change in the fact that you have made. I can't answer the question, Mr. Zollicoffer. We would have a different set of facts. I do not have a counsels consideration of those facts to guide me in the statement I am here making.

Zollicoffer: I understood that the main objection or the reason that the accreditation was being raised because it was an outside force stepping in and trying to direct the schools in North Carolina rather than the Board of Trustees or the Governing Board.

Fields: That's correct. Which is a way of saying that if an issue occurred at all, I can't say that it would, I would not mean this issue,

it would have to do with some other standard of the Association.

Zollicoffer: So if the law was transferred to the Trustees, it still might present a question.

Fields: I don't know.

Zollicoffer: Are there any specific phases of this law that affect accreditation? In other words, is it that a Communist can't speak or one who advocates the overthrow of the government or one who has taken the Fifth Amendment or are they all a group?

Fields: None of these is as significant as the fact that the governing boards whereby this act deprived of their traditional authority to set policy over visiting speakers.

Zollicoffer: Regulating visiting speakers would fall in the same category as regulating members of the faculty of a school or university, if a state legislature adopted such a law which regulated personnel or faculties.

Fields: Correct.

Zollicoffer: Doesn't your home state have a law which provides that anyone who is a member of a group who advocates the overthrow of the government cannot be an employee of a state school?

Fields: I don't know.

Zollicoffer: If they did, would that raise the question of accreditation?

Fields: If they are a member--well I don't know exactly how to answer your question, Mr. Zollicoffer, except in reference to the fact that there existed in this State, I understand, prior to the passage of the Speaker Ban Law, a law which prohibited speakers who advocated the overthrow of the government and the State of North Carolina or who advocated the overthrow of the government or perhaps the language of the Constitution of the United States of America. The Southern Association has never seen any issue that infringed upon the standards for membership in the Association in that law and I take it the governing boards of the institutions have themselves not seen any infringement of their responsibilities.

Zollicoffer: The law of course goes to what they say, not who they are.

Fields: Yes.

Zollicoffer: As I understand it, we had a law that said a member of a political party subscribing to political pay which advocates the overthrow of the American form of government could not be employed in the faculty position, we'd have trouble with accreditation.

Fields: Yes, you are mighty right.

Chairman Britt: Next, I recognize Senator Kirby for any questions he might desire to ask.

Senator Kirby: Mr. Chairman, I think most of our questions have been answered but I did have one or two questions I'd like to pose. First of all, Dean Fields, from the answers you have given to questions heretofore posed, do I understand you to say that there has never been an exact precedent of the situation we find ourselves in today? Your outfit and the State of North Carolina.

Fields: Certainly not in my tenure as chairman, but that only began last December, and I have no recollection of any exact precedent. None have been called to my attention by persons of longer direct acquaintance with the work of the Association.

Senator Kirby: And that would hold true for the area embraced in your Southern Association and outside of the Association? Is that correct?

Fields: What would hold true? My knowledge of the matter?

Senator Kirby: Yes.

Fields: Yes.

Senator Kirby: Are you familiar with the way this particular situation is handled in Ohio?

Fields: No. I understood that the Ohio Legislature had at one point considered a bill similar to the one that was passed in June of 1963 in the State of North Carolina. I was told that it did not subsequently become law, at least in that original form, but I must admit I'm not fully familiar with the facts in Ohio today.

Senator Kirby: Do you say that you couldn't answer the question as to what the situation is in Ohio today?

Fields: That's correct.

Senator Kirby: Are you familiar with the situation in Tennessee as to this particular problem?

Fields: Yes, I'm familiar with some recent actions of the State Board of Higher Education if this is what you have reference to.

Senator Kirby: That's right and up to this point has there been any question raised as to accreditation of the Tennessee institutions?

Fields: No, there has not thusfar been raised such questions. I would doubt very much, however, that the parallel with the law in North Carolina is in any way specific in theory. It's concerned generally with the same subject, but it required the president of the institution to establish a connection between a speaker who might be invited to the campus and the educational purpose for which the institution was created.

Senator Kirby: This may not be entirely germane to the issues before us, but it's my understanding that Tennessee has a law which prevents the teaching of evolution. Is that correct?

Fields: That's been notoriously correct for a long time. Yes, sir.

Senator Kirby: Well, has there ever been any question to arise before the Southern Association as to accreditation -- status of accreditation for those institutions in Tennessee?

Fields: No in the last two decades as far as I'm aware. This is perennially put before the legislature for repeal as you may be aware and people have gotten to where they enjoy the whole process.

Senator Kirby: Now doesn't that law in fact infringe upon your academic freedom?

Fields: You bet your life it does.

Senator Kirby: Well, what we're interested in is why you haven't taken action in this case?

Fields: In the case of the evolution law? I must admit I hadn't thought about this question until this morning, and I feel a little reluctant to think about it now, I must admit.

Chairman Britt: I recognize Senator Gordon Hanes for any questions he might desire.

Hanes: Dean Fields, I think that is a remarkable performance. This is certainly -- your regulations say clearly that outside undue influence is to be deplored and certainly passing a law which says what may or may not be taught is outside influence and is undue as I can imagine, but we'll skip that. It is true I believe that the Southern Association derives its authority from and is responsible only to its own members.

Fields: Correct.

Hanes: So, therefore, the university personnel can make any law for their own governing -- any regulation, any standard that they deem in the general interest of the membership as long as the membership agrees to it or a majority of the membership?

Fields: I believe, if I understand your question there, Senator Hanes, the answer is yes.

Hanes: How is the vote -- by majority, simple majority?

Fields: Yes.

Hanes: By simple majority. If for example a simple majority voted to set such a strict regulation as regard to the percentage of Ph.D's or something, that 25% of the members would be expelled. They could do so.

Fields: The Commission on Colleges taking the initiative in the staff work connected with that and the College Delegate Assembly would be perfectly in their rights.

Hanes: Now, on page 11, your statement says "the governing boards, that is, of the North Carolina institutions were deprived of the authority theretofore possessed mainly to set policy!" In your investigation, did you uncover any policy that they had set with regard to speakers at the university?

Fields: We were made aware by the statements of President Friday and Chancellor Aycock alluded to in my opening remarks that they had given routine and diligent attention to the matter of visiting speakers and that this was not taken lightly. I do not have in mind at this moment a written promulgated policy that the board passed.

Hanes: Actually there was no policy except in the minds of certain people. There was no written policy governing speakers at the university so far as you know?

Fields: So far as I know, but I must say I really don't know the answer to that question, Senator Hanes.

Hanes: We are faced here with a difficult problem. We're trying to determine what action should be taken in order to assure the proper continuation of the University of North Carolina and all its branches plus the other state institutions. It is extremely

difficult when we ask questions and you say that is a speculation, and I can't answer it. For example, in the eyes of the Southern Association, must the Trustees have full authority to govern who shall and shall not speak? Can you answer that question?

Fields: May I take occasion here? I think I can answer your question, Senator Hanes, more clearly than I have heretofore. I'm sure you recognize the difficulty I am in in giving you information on the determination of the Executive Council which they have not in fact made, but Colonel Joyner very early in his queries addressed to me asked a question that's been running through my mind since because it's important and because it must be a matter of concern and worry to a good many people in the State of North Carolina, and this is the roll of the people, of the citizens of the state in determining policy in establishing control over the institution.

Well, it is very clear, is it not, that public education on a state level devolves finally upon the public, and the public has final authority with respect to that matter, and it seems to me also that it has public elaborated methods or procedures by which it may express this voice. I understand that in the State of North Carolina the governing board of the Consolidated University, Board of Trustees of the Consolidated University of North Carolina, is appointed by the Legislature which is itself elected

by the people, and I understand that the other governing boards are appointed by the Governor who is, of course, elected by the people. Now, this is the traditional and American way by which that public may express its will and if it is displeased, it's obvious, is it not, that it has immediate or early recourse which is by removal of the boards with which it is displeased. But to move by another than this standard procedure as it happened in this case to the General Assembly by infringement upon the General Assembly it is a violation of what is at least implicit in the original creation of those governing boards. We are, the people would say, authoritative. We commission you to govern this institution, and it's that thought that seems to me to get at your question. Now, ask it again.

Hanes: Let's try it again. In the eyes of the Southern Association must the Trustees have full authority to govern who shall and shall not speak at the university?

Fields: I would think the governing board would under the system of the idea I just have represented wish always to be responsive to any expressions of opinion whether from private citizens or from the Legislature. They should be attentive to these and sensitive of these and that if they are not forthcoming voluntarily even to seek them but the final authority for setting that policy must, it seems to me, and has seemed to the Executive Council on the Commission of Colleges rest with the governing board.

Hanes: Then, is it not inconsistent that since 1941 there has been no question of accreditation when Criminal Law -- Chapter 14 - 11 -- says "it shall be unlawful for any person by word of mouth, writing willfully and deliberately to advocate, advise or teach a doctrine that the Government of the United States, the State of North Carolina or any public subdivision thereof shall be overthrown or overturned by force of violence or by any other means unlawful for any public building in the state, any political subdivision thereof, etc." This absolutely ties the hands of the Trustees and the administration.

Fields: Well, it may be inconsistent, Senator Hanes, but I'm sure you recall what Emerson said about a foolish consistency, and I do note that the governing boards have in this case not found any infringement on what they would feel to be their appropriate role. Which is a way, I suppose, of saying that there is limit to the freedom that is given to people and they may not use that to yell fire, for example, in a crowded theater, or to advocate the overthrow of our government.

Hanes: Well, it's true that as you started to quote Emerson a foolish consistency is a hobgoblin of little minds, but a foolish inconsistency makes the work of this Commission almost impossible. If this is okay, then it's difficult to see the

difference. Now, Senator Kirby asked, I believe, if the Trustees adopted the policy identical in its effect with the Speaker Ban Law, would the Southern Association question this action and you say you can't answer that. I can understand that you can't but before we report that to the Governor and the people of North Carolina, it seems to me somebody has to answer this question or it's going to be impossible for us to make a conclusive decision on what to recommend. Now, who in the Southern Association has such authority?

Fields: The Commissioner on Colleges as its action is ratified by the College Delegate Assembly.

Hanes: So then we would have to ask the Commission in assembly assembled?

Fields: It seems to me the question may be too broadly put in the way it's just been put. The set of new facts in which you hypothetically put forward remove the issue as that issue has thusfar been identified and brought before the Commission. Now you ask me if another issue might arise, and I say that I can't really speak to the second question, but I can assert the answer to the first question. The issue as it now exists before the Commission on Colleges is removed by this set of facts that you describe. Does that explain or answer?

Hanes: No. It doesn't to me. We've got to have somebody to go to and say what do you want us to do.

Fields: Well, what would you say if I told you what I want you to do?

Hanes: Then we would know. We are grabbling here with a difficult problem. You have said that what we have you don't like. I mean not you, the Southern Association. We say all right, then. What set of circumstances would satisfy the Association and naturally you can't individually answer this authoritatively. What I'm trying to get at is who can.

Fields: Well, that I have answered.

Hanes: The board meeting in session. Okay, that's all I want. Thank you.

Chairman Britt: I assume then, Dean Fields, that what you're saying is we'd have to get an advisory opinion from that group. I believe Mr. Thornburg had one further question he wanted to ask.

Thornburg: It was answered in the course of Senator Kirby's question.

Chairman Britt: Dean Fields, I'd like to ask just one or two questions and I'd like to state very clearly that as Colonel Joyner did in

prefacing to his questions a while ago that if any question I ask may seem partisan, it is only because I'm trying to bring out certain questions that have been raised to us by correspondents, by oral conversation, etc. Now although Senator Hanes touched on this a moment ago in his question, I don't believe that I followed this very close to your answer and that is the 1941 law which we have in North Carolina and I have finally gotten today a memorandum of the laws of the other states of the union, and it seems that a large majority of the other states have a similar law to this. And in which it says, and I'll just read one sentence of it: "It shall be unlawful for any public building in the state, owned by the State of North Carolina, any political subdivision thereof or by any department or agency of the state or any institution supported in whole or in part by state funds to be used by any person for the purpose of advocating, advising or teaching a doctrine that the Government of the United States and the State of North Carolina or any political subdivision thereof should be overthrown by force, violence or any other unlawful means."

Now, sir, my question to you -- wherein lies the distinction between this '41 law that I have just read to you and the Speaker Ban Law except that the Speaker Ban Law limits what it says to schools and colleges who receive aid from North Carolina and also spell out the word Communist and Fifth Amendment pleas? What are the differences between the two laws?

Fields: Well, I assume there were some or the legislature would have not unnecessarily passed the second of these two. The first law, the 1941 law, as was suggested a moment ago goes to what it said rather than who says it. The law of 1963 goes to who says it rather than what is said -- a fundamental difference. There is also a question as to the meaning of the Fifth Amendment pleaders. There is no requirement in the law that persons thus prescribed be found guilty of anything that may have lain behind their pleading the Fifth Amendment so I would say that there are substantial differences between the two.

Chairman Britt: The line of distinction is a little bit hard to draw. However, isn't it except for the fact that the last law does apply only to our educational institutions and spells out the two categories of known Communists?

Fields: Yes, it's -- I don't know if it's hard to draw but the existence of the first law does raise serious question enough to need a second law -- in my mind at least.

Chairman Britt: Dean Fields, I ask this question only because I have heard it discussed here in the Legislative Building by Legislators; I have seen it intimated in letters to the editor, I have heard it raised by any number of other people and I know of no better way to try to get the answer to this question than

ask you, sir, as Chairman of the Commission. Was the action which your Commission or your committee has taken and which your committee is recommending to the Commission and which the Commission will recommend to the annual meeting in December -- was that action precipitated by people in North Carolina?

Fields: Yes, I would say the answer to that is yes. It was precipitated by the General Assembly in 1963.

Chairman Britt: All right, sir. Was it precipitated by anyone else pursuant to the passage of the law? Did anyone else then, either the head of an institution or people connected with either one of our institutions get in touch with you or anyone that you know about and encourage you to take this action?

Fields: No. There were persons in this state who were keenly interested in what we might be considering and there were persons in this state whom I talked with on occasion so that I might feel that I was being kept abreast of developments leading toward some regress to the problem but at no point did any person urge me or as far as I am aware any other member of the Council that we act in the way that we did act.

Chairman Britt: I'm trying to get down to the objectionable features of this law. As I understand it on page 10 of your

printed statement or prepared statement, you used this term: "To protest in the name of academic integrity when the educational effort is hampered by political interference or is in any way menaced by those who would subvert the search for truth."

Now, as I understand it, the objections that have been raised to this law are based on two grounds. First is that it interferes with the Trustees or the governing board with their prerogative in the operation of an institution. And, secondly, that it invades the realm of academic freedom. Are those the two things we are talking about?

Fields: That's correct.

Chairman Britt: That are the objectionable features of this bill as contended for by the opponents of the bill. I'll ask about one other thing before getting into that, however. Now, I have before me your proceedings of the 69th annual meeting, and I'm on page 87 in which we are relating here to certain of the policies of the organization. I assume that all of these policies are regarded as important by the Southern Association and its related committees and commissions?

Fields: Uh-huh.

Chairman Britt: All right, sir. Now on page 87, at the bottom of page 87, the relation of an institution to external budgetary control and reading from that provision: "No educational institu-

tion is properly administered nor can it conduct a sound educational program when any agency or officer other than the controlling board, the president and business officer exercises financial control. Once funds have been appropriated for the operation of an institution, budget making and control of expenditures should be entirely within the institution, and under the jurisdiction of the governing board. If a state budget officer or state controller or any other financial officer or body outside the institution exercises control over the expenditures of the institution to that same degree such outside officers exercise control over the educational functions. Such practices are a clear violation of the principles stated in these standards."

Fields: Uh-huh.

Chairman Britt: Now my question to you, Dean Fields, is that provision generally inforced among the membership of the Southern Association of Schools and Colleges? That is--receive state support?

Fields: This is a matter of concern to the Executive Council and to the Commission, and I must say that there are instances of--oh, what shall we say, tension between members of the administration of the universities and members of the

Legislature. There has not occurred at any point, thusfar, as far as I am aware, of conflict which did not seem to be resolving itself in the ordinary intercourse, the ordinary conversation and reconciliation that occurs between governing boards and the Legislature.

Chairman Britt: Do you know of any question that has been raised in any state within the jurisdiction of the Southern Association regarding that particular proviso? Do you know of any cases that have arisen on that point?

Fields: There have been no cases that have taken formal character. Am I right in saying that, Gordon?

Chairman Britt: Now, Dean Fields, this matter of political interference as you referred to it and as it is referred to in your standards bothers me just a little bit, as a legislator, etc. I'm just wondering if the line isn't a little bit hard to define from time to time, and I certainly do not ask you this question as an official of the organization, but I would like to ask you a question or two, trying to follow that line of thought, just as an educator, for you to give me your opinion about it if you will.

Now, of course, we recognize that, say here in North Carolina, that the buildings, the campuses of our state-

supported institutions belong to the state or to an agency of the state, and for the benefit of the citizens of the state. Now, I assume that it is proper for the General Assembly to make laws regarding, say, speeding on the campuses, or drunken driving on the campuses, or something of that order. That would certainly be within the realm of the body politics, wouldn't it?

Fields: Sounds to me as though it would. Yes, sir.

Chairman Britt: All right, sir, we move a step further. Two years ago we had a number of fires here at the State University. The last General Assembly was called upon to pass laws regarding extending our arson laws and attempted arson. It would certainly be within the realm of the General Assembly to pass laws relating to that, would it not?

Fields: I would think so. Yes.

Chairman Britt: Then, when we move on further and start dealing with the use of the state's property, the further it would go along this line the more difficult the line of demarcation becomes. Is that a true statement?

Fields: Well, by this my offering examples of increasing degrees of gravity or character toward the example that

is in your mind I suppose that one can make it clear that the relationship between the General Assembly in this state or between any legislation and the governing board of one of the state institutions is necessarily a refined relationship and the line is, and I would be the first to admit, fine. Let me say one more thing, Mr. Chairman. I would also be the last to say that we would be in an awful condition, all of us in this country, if legislatures took no interest in higher education or secondary education or elementary education. I would hope they would be keenly interested and at the same time it does seem to me as I have said at other times in this appearance that the persons they appoint who are by other duly constituted processes are appointed to govern those institutions must be permitted to govern.

Chairman Britt: Now, I move one step further along that same line, Dean Fields. I have heard over television, read in the newspaper in the last two or three years about an international organization known as the Mafia. I believe that is the pronunciation of it -- a big crime organization. Do you think it would be within the providence of the General Assembly of North Carolina or other states to say that no member of the Mafia or no person that promotes the causes of international crime would be permitted to use any property belonging to the State of North Carolina or to any of its political subdivisions or agencies?

Fields: Mr. Chairman, this -- you ask me what do I think the providence of the General Assembly is on these campuses, and I have already made it clear in this statement that our Executive Council has not questioned and does not question the power of the General Assembly to pass any law it wishes. Perhaps we can short circuit the questions by simply saying that again.

Chairman Britt: Dean Fields, the question that I am driving at -- here we are, many of us members of the General Assembly.

Fields: Uh-huh.

Chairman Britt: We didn't ask to serve on this committee. We were requested to serve. I don't think any of us wanted to serve, but the only way that I can find out and some of the rest of us can find, what is within the realm of the General Assembly and what is within the realm of a propriety of the field of education is to try to ask some educator.

Fields: Uh-huh.

Chairman Britt: And you have certainly come to us highly recommended as one of the best -- both privately and publicly, and I am frankly and earnestly trying to find just about where that line of demarcation is, but do you, as an educator, feel that that would be an improper action by a

General Assembly to permit an international crime organization such as the Mafia to use any property, any public property, in the state.

Fields: Well, I repeat that this sounds to me, at first blush and without any opportunity to study the question, that this would be a perfectly appropriately kind of action.

Chairman Britt: Well, then pursuing one step further, Dean Fields, isn't the international Communism, as we recognize it today, a conspiracy which is designed to enslave free peoples of the earth, etc.? If it would be in order for the General Assembly to take action to forbid the state's property to be used by the Mafia organization, or one with its principles, and ambitions and goals what's wrong with going this step which I have referred to about international Communism which is just as dangerous if not even more so?

Fields: That is a very good set of questions. I don't think, Mr. Britt, the question that is in my mind, and here you are entering into questions that the Executive Council has not specifically considered so that all I can do is say what I would myself feel in response to that question -- that series of questions. The issue is not whether the General Assembly has the right to pass this law; the issue is not whether it is a

matter of propriety for the General Assembly to be deeply concerned about Communism and to do whatever it might in order to combat Communism. The issue is whether it achieves that end without violating other aims which are ancient in our culture and well worth preserving, and one of these is the autonomy of governing board of a college or university which is virtually as old, if not as old, as higher education in the United States. I can't imagine a set of circumstances which would require us in our efforts to combat Communism to scrap traditional institutions we have found valuable in many, many, many ways.

Chairman Britt: I see that the hour of one o'clock has arrived, and I would like to ask first, Dean Fields and Mr. Sweet, if the commission did desire to hear from you further at two o'clock, would you be available at that time?

Fields: Yes. I have a plane at 4:10, but planes run at other hours of the day, you know.

Chairman Britt: Is your trip from the Raleigh-Durham airport?

Fields: It is.

Chairman Britt: All right. I'll now ask members of the commission if there is any member of the commission who desires to ask

Dean Fields or Mr. Sweet any further questions if we would ask them to come back at two o'clock? Is any member of the commission to my right? To my left? That seems to solve the schedule program then, and Dean Fields, I want to say again that we certainly appreciate the great trouble you have gone to in coming, the forthrightness with which you have answered questions of the commission, and Mr. Sweet, we appreciate your coming. I am sure that all your moments, sir, have not been pleasant ones, but we certainly appreciate the help you have been able to give us.

Mrs. Swindell: I have just one question.

Chairman Britt: One more question from Mrs. Swindell.

Mrs. Swindell: All you have said today, I have in my mind, is that what has happened has not hurt the academic standing of our colleges.

Fields: I didn't say that.

Mrs. Swindell: I know that -- what would you say?

Fields: I'd say that there -- this is a very large question.

Mrs. Swindell: I'm sorry. I withdraw it.

Fields: I think the universities might be the ones to comment on it, but I would say one thing -- thusfar you have benefited by somewhat less publicity outside the state than might have been the case and that is helpful, I would think.

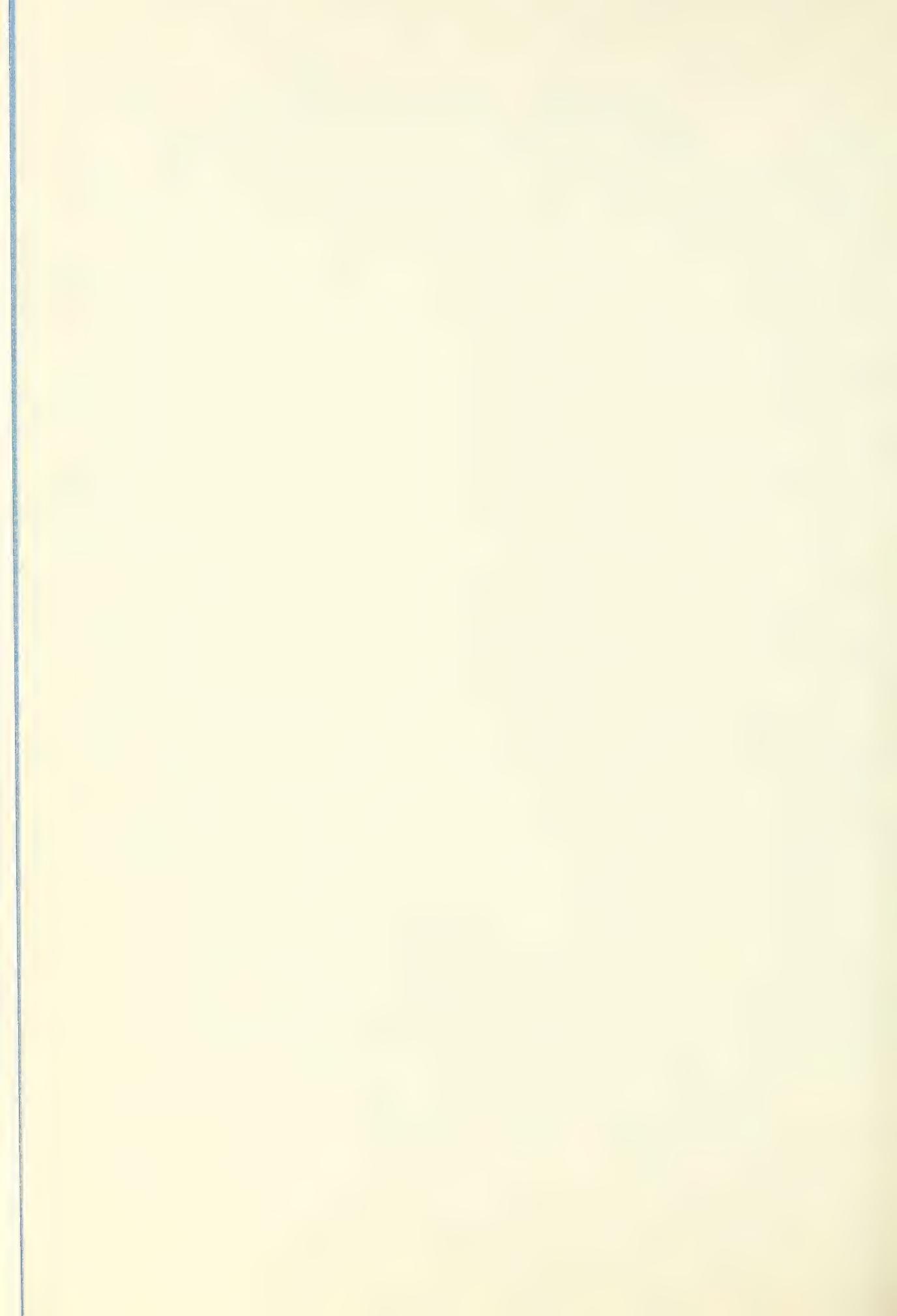
Mrs. Swindell: Thank you.

Chairman Britt: Well the commission will now adjourn and try to convene promptly at two o'clock.

Hearings on the act of the 1963 General Assembly which created the controversial law. The hearing is being held in the auditorium on the third floor of the Legislative Building. Live television cameras will broadcast full coverage of all of the hearings sessions by WUNDTV in cooperation with North Carolina Association of Broadcasters and other participating television stations. On WUNDTV, the originating station, the hearings are being telecast in their entirety and without interruption or comment. The brief interruption in the program at the time of the recess this morning resulted from a momentary loss of power to the originating television equipment. The sound portion of the hearings is being furnished for this telecase and to all news media by WBT in Charlotte cooperating with the State Broadcasters Association. Representatives of the Southern Association of Schools and Colleges were witnesses

during this morning's session. Dr. Emmett Fields of Vanderbilt University, Chairman of the Commission on Colleges, and Gordan Sweet, Executive Secretary of the Commission on Colleges, represented the Southern Association. The commission plans to resume hearings this afternoon at two o'clock and to continue tomorrow at ten o'clock and two o'clock. This coverage of the commission to study the Speaker Ban Law is being produced by WUNDTV in cooperation with participating television stations. This is the North Carolina Association of Broadcasters Television Network.





HEARING BEFORE SPEAKER BAN STUDY COMMISSION

State Legislative Building

Raleigh, North Carolina

Wednesday, August 11, 1965, 2 p. m.

Testimony by Dr. Howard Boozer

North Carolina Board of Higher Education

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Chairman David Britt: I'll ask that the Commission come to order.

Meeting come to order. Visitors will please find seats. I observe in the audience this afternoon a number of additional legislators, some who were not with us this morning, and former legislators, we certainly welcome you to these sessions. And all other visitors who are present, we are certainly glad to have you. Has Representative Phil Godwin come in? (yes sir) Ladies and gentlemen, in the 1963 session of the General Assembly, the bill in question was introduced in the House, was explained by, the distinguished representative from Gates County. We have him with us at this time for the purpose of explaining this bill or making any other statement about it which he so desires. This is a legislative Commission of procedure as indicated this morning and which introducers and sponsors of bills do appear before the committees and explain their bills. Representative Godwin is serving his third term in the General Assembly, during the recent session was Chairman of the very important Committee on Judiciary No. 2. He is an attorney, and I submit him at this time to make such statement as he desires regarding the Speaker Ban Law. Mr. Godwin.

Representative Phil Godwin: Mr. Chairman and members of the Commission, it was my understanding when you called me and asked me to appear before the Commission that my purpose of the, my appearance would be to explain the bill, the purpose behind the bill, and its enactment. I would like to express to you my appreciation for your invitation to appear before your Commission, to explain HB 1395 which was introduced in the 1963 General Assembly by Representatives Delamar, Woodard of Northampton,

Barbee, O'Hanlon, Wilson, Sermons, Calder and myself, and which is Ch. 1207 of the 1963 Session Laws. First of all, let me say that at the time of the introduction of HB 1395, I had no idea that it would have caused the controversy which it has, and I would like for the record to be clear in that I respect the right of anyone to disagree with me on the content and purpose behind the bill. However, I feel that I and the other introducers of the bill should be granted the same respect. The bill is entitled A Bill to be Entitled an Act to Regulate Visiting Speakers at State-Supported Colleges and Universities. Under §1 of the bill, it states that no college or university which receives any State funds in support thereof shall permit any person to use the facilities of such college or university for speaking purposes who, first, is a known member of the Communist party. Second, is known to advocate the overthrow of the Constitution of the United States or the State of North Carolina. Third, has pleaded the Fifth Amendment of the Constitution of the United States and refusing to answer any question with respect to Communists or subversive activities before any duly constituted legislative commission, or any judicial committee, or any executive or administrative board of the United States, or any state. §2 of the bill sets forth that the Act shall be enforced by the board of trustees, or any other governing authority of such college or university, or by such administrative personnel as may be appointed, therefore, by the board of trustees or other governing authority of such college or university. The bill was ratified on June 26, 1963. The bill really needs no explanation, in that it speaks clearly for itself. Under §1 it states that the governing body or authority of a state-supported college or university shall not permit a known member of the Communist party to use the facilities of a state owned college or

university for the purpose of speaking. An example of a known Communist would be Gus Hall, Langston Hughes, Milton Rosen, Julius Scales or other confessed Communists. Under paragraph B of §1, the bill states that the governing body of a state-supported college or university shall not permit a person to use the facilities of such college or university for speaking purposes who is known to have advocated the overthrow of the Constitution of the United States of North Carolina or of the United States. I feel that this is clearly stated that any person known to have advocated the overthrow of the Constitution of the United States or the State of North Carolina should not be permitted to use the facilities of a state-supported college or university for the purpose of speaking. Under §1, paragraph C, the bill states that the governing body or authority of a state-supported college or university shall not permit a person who has pleaded the Fifth Amendment of the Constitution of the United States and refusing to answer questions with respect to Communists or subversive connections or activities before certain duly constituted legislative committees, or judicial committees, or any executive or administrative boards of the United States, or any state. The intent of the legislature is clearly stated within these three paragraphs. The enforcement of this legislative intent is delegated to the board of trustees or other governing authority of such college or university. §2 of the bill sets forth that the Act shall be enforced by the board of trustees or other governing authority of such college or university or by such administrative personnel as may be appointed, therefore, by the board of trustees or other governing authority of such college or university. Therefore, it is up to the board of trustees or governing authority of a state-supported college or university to see that the legislative intent is carried out by

preventing a violation of any of the paragraphs set forth in §1 of the Act. There has been much criticism in regards to how HB 1395 was introduced in the House and passed in the House on three readings upon a suspension of rules and sent to the Senate and passed there under the suspension of its rules. Mr. Chairman, I would like for the record to be clear that there was no intent on the part of any of the introducers to wait for an appointed time for the introduction of this bill or to catch the House off guard, and I can assure you, as you and other members of the legislature, who are members of this Commission, are well aware, that this was not the only bill that was enacted into law in the 1963 General Assembly by a suspension of the rules. An examination of the records will reveal that many bills were enacted under suspension of the rules. Representative Ned Delamar of Pamlico County and myself had been discussing the bill at great length over a period of time, and upon review of the existing statutes, we were of the opinion that Article 4 of Ch. 14 of the North Carolina General Statutes, entitled Subversive Activities, did not prevent a known Communist, or a person who had previously advocated the overthrow of the Constitution of the United States, or the State of North Carolina or who had previously pleaded the Fifth Amendment from speaking at a state-supported college or university. The difference between Article 4, Ch. 14, and HB 1395, in my opinion, is that Article 4 would permit a known Communist, or a person who had advocated the overthrow of the United States, or the North Carolina State Constitution, or had pleaded the Fifth Amendment, to speak at a state-supported university so long as they did not advocate the overthrow of the government in their speech. HB 1395 would prohibit people known to be Communists, or people who have advocated the overthrow of our government, or have

pledged the Fifth Amendment as set forth in the bill, from speaking at state-supported colleges or universities. We learned that there was a proposed bill pending in the General Assembly of the state of Ohio, and we were waiting to see the outcome of the Ohio bill. However, we learned that the House of Representatives passed a bill similar to HB 1395. But at that time, we did not know the action of the Ohio Senate. Due to the lateness of our session, we decided to go forward with the introduction of our bill. As I recall, the House of Representatives was at a recess waiting for a report from conferees which had been appointed. I discussed the proposed bill with Speaker of the House, Clifton Blue, and gave him a copy of the bill and told him that due to the lateness of the session, that I would like to request that the rules be suspended in order that the House might discuss the bill and act upon it on that day. Several members of the legislature discussed the bill with me and those came by--several came by my desk and signed the bill. In the meantime, I saw the President of the Senate, The Honorable Clarence Stone, and gave him a copy of the bill, and I advised him that I planned to introduce the bill in the House on that day. That I would request the rules to be suspended to the end that the House might act upon the bill, and that I would request that the bill be sent to the Senate, if passed in the House, by special messenger. And if it was agreeable with him, I would appreciate if the Senate would consider the bill on that day due to the lateness of the session. As I recall, I gave several senators a copy of the bill prior to the House reconvening for business. The bill was introduced in the House and, upon my request, the rules were suspended without objection to the end that the bill could be placed on the calendar for its second and third reading. The reading clerk

read the bill and I explained the bill. As I recall it, Representative Paul Story of McDowell County was the only member of the House who questioned me concerning the bill and his question was directed to paragraph C of §1 of the bill. The bill was again read, and I advised the House that I would be glad to answer any questions concerning the bill, and the bill passed its third reading without further comment. Upon its passage, I requested that the bill be sent to the Senate by special messenger. Contrary to what has been previously reported, I did not have a conversation with the President of the Senate when I entered the halls of the Senate. I talked with Senator Wilbur Jolly and to Senator Garland Garriss. The bill came before the Senate in an orderly manner as all other bills did as a special message from the House at which time, upon the motion of Senator Garriss, the rules were suspended in the Senate and the bill was passed in that body. After the passage of the bill, and due to the fact that the question of the constitutionality of the bill had been raised, I requested the Honorable T. Wade Bruton, Attorney General of North Carolina, to give me his official opinion in regard to the constitutionality of Ch. 1207 of the Session Laws of 1963. In an opinion prepared by the Honorable Ralph Moody, Deputy Attorney General, and approved on August 2, 1963 by the Attorney General, I would like to read to you the conclusion set forth in that opinion which speaks for itself.

Quoting from Mr. Moody: "My study and research on this subject leads to certain conclusions which I state as follows: First, Ch. 1207 of the Session Laws of 1963 does not in any manner prohibit, limit or restrain valid and legitimate academic freedom. The statute does not prohibit or restrain any investigation or pursuit of learnings to the philosophy and doctrine of that facet of socialism which is referred to

as Communism. The statute does not prohibit or in any manner restrain or prevent any professor from giving any instructions about Communism which he may desire and think proper. The statute does not prohibit the sale or acquisition of any books, pamphlets, papers or magazines about Communists or Communism whether the same be published by a Communist press or not. In other words, all legitimate, valid and legal avenues are open to any person who wishes to know about Communism and all of its features and details. It does not limit the freedom of the press. §2 - The statute does not, in my opinion," quoting Mr. Moody, apply to persons who were former members of the Communist party but who have withdrawn from the party in good faith and have ceased all affiliations with the party. Third, it does not apply to persons who joined the party in order to discover its purposes in the capacity of an undercover agent. The statute would apply to a student who is a member of the Communist party and desires to use the facilities of a college or university receiving state funds for the purpose of making a speech. Fifth, the statute does not infringe upon the violation, or the violation, the law of the land, of the law of the land clause, of our Constitution which is Article 1, §17. And insofar as the Constitution of North Carolina is concerned, the statute is valid and constitutional. Sixth, the statute Ch. 1207 Session Laws of 1963 does not violate the First Amendment of the Constitution of the United States as the same is incorporated within the 14th Amendment of the Constitution of the United States and made applicable to the states. Seventh, considering the nature, purposes, tactics and strategy of the Communist party and considering the nature and probable effect of the Communist conspiracy, as well as its natural tendency, and since the Supreme Court of the United States has said that "we must, therefore, reject the contention that success

or probability of success is the criterion," and has further said in substance, in the case of Dennis vs. the United States, that the defendants intentions to overthrow the government as a speedy as circumstances would permit affords the requisite danger so far as a clear and present danger is concerned. I conclude that the statute is well within the police power of the State and that the State has a right to make a classification as to the Communist party and regulate speakers who are members of such parties and the same is true as to persons who claim the protection of the Fifth Amendment with respect to Communists or subversive connection. I conclude that the statute is constitutional and valid insofar as the provisions of the Constitution of the United States are concerned. The statute would apply to a student speaker and state facilities who has claimed the protection of the Fifth Amendment in connection with Communists or subversive activities. The statute does not apply to persons who claim the protection of the Fifth Amendment in connection with connections or activities other than Communists or subversive. The Act has nothing to do with the concept of censorship or thought control and does not promote the so-called witch hunting. The Act is aimed at those who advocate and promote subversion and illegal overthrow of our government. It does not in any manner prohibit or prevent any person, persons or groups from advocating or promoting amendments and changes to the Constitution, including State and Federal. In an orderly manner and according to the Constitution provisions already provided for for such changes and amendments. The Act would not permit--prohibit the calling of a constitutional convention whereby the Constitution could be completely changed, revised and rewritten." That is the end of Mr. Moody's quotations. If your Commission does not have a copy of the Attorney

General's opinion, I would like to be advised in order that I may see that they do have a copy. Due to the fact that the opinion was based on judicial decisions, which I think should be helpful in your consideration.

I would like to thank you again for your invitation to appear before your Committee, your Commission. I feel that I have discussed the pertinent facts concerning the intent of the bill and its introduction.

Chairman Britt: Mr. Godwin, we certainly appreciate your statement and I'll say for your information, since you raised the question, that each member of the Commission has been provided with a copy of Mr. Moody's opinion. We have also requested him to render a supplement to that in view of certain decisions since that time and which have also been distributed to members of the Commission. Now at this time I'm wondering if any member of the Commission desires to ask Mr. Godwin any question and I'll start first with Senator Hanes.

Senator Gordon Hanes: Just one question that was raised by a letter that I received. How do you define facilities of the university?

Mr. Godwin: Well I think, Senator Hanes, the intent of the bill would be a building or a State-owned facility, if it was an amphitheater, or not necessarily a building, but if it was State owned.

Senator Hanes: Well, in this particular instance it was interpreted to mean not only buildings and physical facilities but also departments of the university who might be arranging for a meeting. Was that contemplated in the original bill? For instance, suppose a department

of State College was arranging for a meeting of some group to be held at a place other than the college or university. In your opinion would this be using--and suppose a member of this association to meet were a Communist and was speaking on zoology or anthropology or whatever. Would the fact that it was arranged by members of the faculty, arranged by a group, department of the university, but physically held at another place--would that come under this?

Mr. Godwin: In my opinion it would not come under if it was not held within a State-owned building or facility.

Senator Hanes: That's what I thought but it was interpreted the other way and a group was refused, or rather turned down an invitation, to come to North Carolina for this reason. That's all.

Mr. Britt: Mrs. Swindell, do you have a question to ask Mr. Godwin?

Mrs. Swindell: Well, do you consider or has it been said that this law limits free speech? Now would you like to comment on that?

Mr. Godwin: Yes, ma'am. In my opinion it does not limit free speech. It limits where the speech may be made. If a Communist wanted to come to anywhere in North Carolina he could speak anywhere he pleased. He could speak on the street at Chapel Hill, he could speak on the street here, providing it was not against some ordinance. But it does prevent him from using a State-owned building for the purpose of speaking. That within itself, in my opinion, does not prevent freedom of speech.

Mrs. Swindell: Thank you.

Chairman Britt: Senator Kirby.

Senator Kirby: Representative Godwin, in giving us the language from the bill a while ago you mentioned known member of the Communist party and you later said confessed Communist. Do you see any difference between the two?

Mr. Godwin: Well, there are very few confessed Communists, I mean ...

Senator Kirby: But, the question is would this just apply to confessed Communists?

Mr. Godwin: No, I think it would apply to known Communists. I think the FBI probably has a record of known Communists in the United States.

Senator Kirby: You don't really have a definition of known Communists, do you, Representative Godwin?

Mr. Godwin: I have one of my own opinion. He's a person that believes in the doctrines of Communism. I don't expect him to run around the campus of the university with a sign around his neck "I'm a Communist". I feel that that what the intent of this bill was that the FBI and many others have a record of known Communist speakers such as I mentioned, Gus Hall and some of the others. Now I wouldn't, I don't think this bill is intended to do any witch hunting. It wasn't my purpose. If I believe that some person has a different view that I would point the finger to him and say well he's a Communist and he shouldn't speak. That's not the purpose of it.

Senator Kirby: Well then, would you say the lists that the FBI might provide would be the--an exhaustive list that could be used for, for application of this law?

Mr. Godwin: That and other means. I feel that the State department, the FBI and other means, avenues, could be a list could be provided for anybody seeking to find out whether that person was affiliated with the Communist party or not.

Senator Kirby: I notice from the bill, or the law now, that there is no penalty set out in it. Was there a reason for not having a penalty set out in this bill?

Mr. Godwin: Well, the penalty would be the--the enforcement of the bill is left to the board of trustees or other governing authority of the college or university. The penalty would be for that board of trustees or the governing authority to completely disregard what the legislature has said. As far as a fine or a prison sentence, it was not the purpose of the committee to enforce, in other words put a fine or a penalty of that nature to it.

Senator Kirby: In other words, this--this bill would not be operative the same way the Tennessee law is, for instance, that prohibits the teaching of evolution, where the professor is fined for teaching?

Mr. Godwin: There is no, no section in this bill for that sir.

Senator Kirby: Is it true, too, that there is no severability clause in this bill?

Mr. Godwin: I think that's correct, sir.

Senator Kirby: I've heard it said that this particular bill would have prohibited Robert E. Lee from speaking on the university campus. Now, under your interpretation of the law, would that be true?

Mr. Godwin: My interpretation of the law, Robert E. Lee was not a Communist.

Senator Kirby: But he advocated the overthrow of the United States Government, didn't he?

Mr. Godwin: He might have. So did a lot of others but they ... If you interpret it strictly as that, yes, I say he would be prevented from speaking. And so would many others have been.

Senator Kirby: Now as I understand this law and see if I misunderstand the law. A person who is a member of the Communist party, say a Russian coming here from Russia could not come, say to the University Medical School and even make a talk telling the doctors in the graduate school how to perform a certain type of operation. Would that be true under this bill?

Mr. Godwin: Under this bill I think that would be so, sir. I would like to comment on that further, probably, that under the intent of the bill, freedom of expression between countries I don't think was the intent of the bill, possibly of the introducers of the bill, scientific expressions. But you get into an avenue of where a Communist, coming to this country or to the university, for the purpose of exchanging scientific ideas and knowledge, you have no knowledge of where he will leave off of his scientific expressions and go into a political expression. That's the only danger that I see in that.

Senator Kirby: Would you now prohibit this particular activity?

Mr. Godwin: Would I prohibit it?

Senator Kirby: Yes, sir.

Mr. Godwin: I would like not to say at this time whether I would or not, to express my opinion on it.

Chairman Britt: Mr. Zollicoffer.

Mr. Zollicoffer: Mr. Godwin, under this bill could the Russian ambassador speak on any of the State-supported colleges or universities?

Mr. Godwin: Not in my opinion, Mr. Zollicoffer.

Mr. Zollicoffer: Do you think that would in any way affect the education-- quality of education--that could be offered at those colleges and universities by not being able to hear an ambassador from an iron curtain country?

Mr. Godwin: Well, if I--see if I understand your question. Whether or not the fact that an ambassador of-Russian ambassador could not speak at the University of North Carolina--whether it would affect the education quality....

Mr. Zollicoffer: The overall quality that could be offered at a university.

Mr. Godwin: I can only give you my personal opinion and that is that it would not affect the quality of the education there.

Mr. Zollicoffer: Do you think it would be educational for a student to hear Krushchev speak?

Mr. Godwin: I don't think it would be. Let me say this, Mr. Zollicoffer. In my personal opinion I would like to see a course taught in Marxism in all of the universities and colleges provided that course is taught by a professor that sticks to his text and does not inject any of his own philosophies. I think that it should be taught; I think the students of this State should know what Marxism is but that's the place for it and not by some visiting speaker.

Mr. Zollicoffer: What I was attempting to get around to--it wasn't the intent of this bill to limit ambassadors or leaders of the iron country curtains from speaking? That wasn't your main intent. Your main intent, wasn't it,

to let somebody speak who the students didn't know who he was or what he represented and might be indoctrinated unknowingly. Wasn't that the idea behind it?

Mr. Godwin: That's the idea, Mr. Zollicoffer, but the line is where if you let an ambassador come over and he speaks a political speech, I think the intent of this bill is to prevent him from doing that.

Mr. Zollicoffer: Well, of course, the bill prevents him from speaking at all.

Mr. Godwin: That's right.

Mr. Zollicoffer: Did you or any of the other introducers of the bill have any information about the growth of the Communist Party on any of the college campuses or the University campus?

Mr. Godwin: Well, I had the information, Mr. Zollicoffer, that was published by J. Edgar Hoover who had warned the United States or the public so to speak that the Communist Party in the United States planned to stepped up--step up-- its program in providing speakers to be furnished to campuses. In other words they would have the speakers available and also that they would try to have these Communist speakers go into the campuses and make these speeches. That's a published document.

Mr. Zollicoffer: If my recollection is correct, didn't Guss Hall speak last-- he was the last Communist that spoke in North Carolina at one of our major universities or colleges, and he spoke at Wake Forest, did he not?

Mr. Godwin: I'm not sure if he was the last one or not. I know he has spoken at the University of North Carolina.

Mr. Zollicoffer: Was the--his speech at Carolina or at Wake Forest--did that

promote this legislation?

Mr. Godwin: No sir, I wouldn't say that that one particular speech promoted this legislation.

Chairman Britt: Colonel Joyner?

Colonel Joyner: No thanks. No questions.

Chairman Britt: Mr. Thornburg?

Mr. Lacy Thornburg: Phil, you alluded to the existence of Chapter 14 of the General Statutes where it is provided that it be unlawful for any person to advocate the violent or teach the doctrine of the violent overthrow of the government of the United States and the State of North Carolina and its various political subdivisions. At the time this bill was conceived, did you have any knowledge of the--of any violation of this particular law by University officials?

Mr. Godwin: I had no knowledge personally, no sir.

Mr. Thornburg: Did you have any personal knowledge of Communists actually being permitted or requested to speak on the campus with immunity for preaching of any doctrine or any political doctrine....

Mr. Godwin: Well, I think the record speaks for itself that there have been some appearances of members of the Communist Party on--at the University.

Mr. Thornburg: Do you recall any specific instances?

Mr. Godwin: I think Langston Hughes appeared there; I have in my briefcase documentative dates that I'd be glad to furnish the Commission. I think Gus Hall appeared; I think also Milton Rosen appeared at the University.

Mr. Thornburg: We've been speaking in terms, and I've phrased my questions in terms, of the University, I wonder if that included---this same fear--included any of the other institutions of higher learning of this same practice? I'll put it that way.

Mr. Godwin: Well, we had no evidence of ever appearances made by Communists at other colleges or universities--State-supported universities?

Mr. Thornburg: Yes

Mr. Godwin: I know of none. In other words, I don't have any documentative evidence of any.

Mr. Thornburg: Was it your original intent to preclude a known Communist from speaking on any subject, whatever that subject might be? I take it it was from the wording of the Act.

Mr. Godwin: Well, Mr. Thornburg, I think it's been stated by our State Department, by Mr. Hoover, head of our FBI, that a Communist should not be permitted to speak.

Mr. Thornburg: Regardless of the subject on which he was speaking?

Mr. Godwin: At the time that this bill was introduced, that was true, sir.

Mr. Thornburg: I seem to recall having seen in print, or one of the dailies, or perhaps in a circulation, that perhaps something other than consideration of Communism promoted the introduction of the bill, and I just wondered if there is any truth in that. Whether the activities that were going on down in the street at the time....

Mr. Godwin: Mr. Thornburg, I have heard that also, in fact, I have heard many things reported in the press and otherwise concerning the introduction

of this bill, the background behind the bill which is completely untrue and that is one of them.

Mr. Thornburg: One thing that probably bothers me a little bit about this bill--I wonder if, as I understand it, any violation of this Act would, under another statutory section in the laws of our State, subject the administration to penalty of misdemeanor whereas the speaker himself would not be affected in any way. Is that your interpretation of it?

Mr. Godwin: I'm not clear on the reference that you are making from this statute to another statute. I know of no penalty that the speaker himself would incur by speaking.

Mr. Thornburg: And the penalty would be against the parties who are charged with the responsibility of administering this Act? The terms of the Act... is that....

Mr. Godwin: In my opinion, the penalty would be a breach of confidence that the General Assembly places in the hands of the board of trustees at one of these State-supported institutions by a violation of it.

Mr. Thornburg: Now if it should be affirmatively shown to your satisfaction, this is somewhat in keeping with what Senator Kirby asked earlier, you may not wish to comment on it, I'll ask it. If it should be affirmatively shown to your satisfaction that the accreditation of our institutions of higher learning were in truth in jeopardy or perhaps that the accreditation would be withdrawn if this Act were not amended or repealed, would that affect in any way your considerations of whether that action should be recommended or taken?

Mr. Godwin: Well, Mr. Thornburg, I have followed the hearing this morning on

television and I have been interested in trying to determine whether or not the accreditation would be affected, and so far I haven't been able, I don't think, to get an answer to that. Certainly, as a member of the General Assembly, the University and State-supported colleges are a primary concern of mine, and I would not like to see any State-supported college or university lose its accreditation. However, on the other hand, I do not like to see the Legislature or the General Assembly threatened with an issue to coerce them into action or inaction.

Mr. Thornburg: I agree with you that that question was not answered this morning and perhaps that further inquiry will of necessity be made, but I'd wondered what your feelings were in that regard and assure you, that as a fellow member of the Assembly, that we have a very high regard for your opinion in this matter. No personal censure intended.

Chairman Britt: Mr. Fisher?

Mr. Fisher: Mr. Godwin, this has been touched on before, but it is not quite clear in my mind. Now, when you were preparing this bill--these other men are lawyers and I'm a layman--when you were preparing this bill, was any attempt made to talk to the trustees of the University or to the administrators to find out what possible effect this bill might have if it were passed?

Mr. Godwin: No, sir.

Mr. Fisher: And there was no public hearing of any kind?

Mr. Godwin: No, sir.

Mr. Fisher: Well, if this were to -- if you could do this all over again--this is a hypothetical question . . .

Mr. Godwin: If I could do it all over again, it would be done differently.

Mr. Fisher: Well, what I was getting at, do you feel that probably it would have been better to have had a public hearing?

Mr. Godwin: Well, I'll say this. I would have not objected to a public hearing, and in my statement, Mr. Fisher, I would like, I said that I would like for the record to be clear that there was no intent on the part of the introducers of this bill to wait for an appointed time, to wait to the last days of the General Assembly, in fact, when the bill was prepared, I just couldn't see anything wrong with or where anybody in the State of North Carolina would ever object to it. And that's the honest truth.

Mr. Britt: Mr. Myers, do you have any questions?

Mr. Myers: Mr. Godwin, do you see any contradiction personally or any conflict in the fact that this bill would prohibit technical people, from Russia say, coming to our University and the fact that our own government is constantly sponsoring interchange of technical society as a means of enlarging the whole world's knowledge? Is there any conflict in your mind on this point?

Mr. Godwin: I think it is, sir. Under the bill a Communist would be prevented from coming here and speaking no matter what his text was. And I think that that is a problem that has concerned many of us.

Mr. Myers: That's all I have, sir.

Chairman Britt: Mr. Godwin, to inject something a little bit along the lighter vein, I read somewhere the other day where somebody wanted-- made the comment or observation that it now would be impossible for a Fifth Amendment pleader to attend a football game at one of our stadia and speak out either for one team or against the other team.

Mr. Godwin: I assure you we wouldn't know whether he was speaking out or not at most of the football games we have.

Chairman Britt: Mr. Godwin, I'd like to say at this time, I know that every member of the Commission that knows you well, are aware of your sincerity, and I appreciate your appearing here this afternoon and the statement you have made, and I just ask you one more time, I believe it was asked a while ago or you volunteered the information, that if you had known it was going to cause this much ruckus you might not have introduced the bill, is that about the size of it?

Mr. Godwin: I had no idea that it would, sir. I would like to say this, Chairman Britt, there has been injected, I think wrongly, that probably this bill came about with the attitude of a censure maybe of the University, that the Legislature and the University, the harmony there doesn't exist as it should, which I think is incorrect. I think if, as you well know and Mr. Zollicoffer well knows, and as Senator Hanes well knows, that I have no personal animosity toward the University, and my voting record in the Appropriation Committee will so express it.

Chairman Britt: I gather from that then, Mr. Godwin, that in introducing this bill, you did not do so in a spirit of vindictiveness against anybody...

Mr. Godwin: No, sir.

Chairman Britt: Except the Communist Party.

Mr. Godwin: I have a boy that's thirteen years of age, and I'd like for him to be able to grow up and to be able to attend any State-supported college or university without being subjected to any speech from a Communist, no more

than I would like to have him to have to serve now in South Viet Nam. And I think this bill came about at a perfectly honest intent on the part of the introducers. There might be some areas where there are some problems, and I hope that we can work them out.

Chairman Britt: Thank you very much, Mr. Godwin, we appreciate your coming, and we appreciate your statement.

At this time, I'm going to ask Dr. Howard Boozer to come to the microphone and would like to ask the members of the Commission, if they will, to get a brief which I mailed to each of you several weeks ago, which is a condensed record of letters which were received from various governmental agencies regarding the effect of accreditation. Now, does--is there any member of the Commission that does not have one of these with him. Let's see if I have enough to go around here. Anyone else--anyone else that does not have ..., leave one for myself here. I'll say to the members of the press, I'll be glad--I had hoped to pass those ten or twelve copies that I had out to you and as soon as we finish with this discussion I'll be glad to pass them on to you so that you will have this written memorandum.

At this time, at this time, I'd like to make this statement regarding the appearance of Dr. Howard Boozer before this Commission. Dr. Boozer is Acting Director of the Department of Higher Education of North Carolina. He is a native of Kentucky; he attended Cumberland College in that state; he attended Howard University in Alabama; he received graduate work in Missouri and other places in the South and border states; and he has been with our office of higher education for a number of years as Assistant Director. His appearance here this afternoon is one hundred percent by invitation. He did not ask to appear. No one asked that he be allowed to appear.

But it was a feeling...it was my feeling, as Chairman of this Commission, that it was necessary that this Commission have information from the various governmental agencies, the U. S. Office of Information--Education, and other governmental agencies as to what effect accreditation of institutions, colleges and universities have upon participating in the programs of those various institutions. We have tried over the past three weeks to get someone here from the U. S. Office of Education. We felt sure we had about the third man in command of that office lined up to come to find out the last of last week that he had severed his connections with that office and is no longer with them. I have tried to do the next best thing. And that is to ask Dr. Boozer to come before this Commission. I've asked him to study the programs of these various agencies as carefully as he can, to receive full information, and then to act as more or less a channel here this afternoon for the benefit of this Commission and also the public in passing on this information to us. I want that to be completely and crystal clear for any number of reasons. I'm well aware of some of the troubles the Higher Board of Education has had in recent months. I'm well aware of the fact that there has recently been a reorganization of that commission, and I do not want that commission placed in a position here this afternoon of anything except that of channeling to us this information. Now, with that in mind and I hope that I have made myself clear, I have furnished each member of the Commission--and I'm going to pass these two extra copies I have down to members of the press as far as it will go and it won't go very far but I'll pass them down there for those who can get hold of them. I'm going to ask Dr. Boozer to read the letter or a copy of the letter that he sent to each of these agencies. And then I'm going to ask him to make, proceed

to make such formal statement as he desires about his report, on information from these various agencies. Dr. Boozer.

Dr. Howard R. Boozer: Mr. Chairman and members of the Commission, sometime ago at the request of Mr. Britt, a letter was sent to a number of federal agencies which administer a variety of loan, scholarship, contract research, other higher education programs, and the letter noted that the tax-supported institutions in North Carolina have been advised by the Southern Association of Colleges and Schools that their accreditation by that agency may be in jeopardy because of the 1963 Speaker Ban Law. These federal agencies were asked to respond to the following question: If they, the institutions, are actually put on probation or are removed from the accredited list of the Southern Association of Colleges and Schools, what effect would this step have on grants that might come from your agency. Replies have been received from nine of these agencies and are reproduced on this paper that you have before you. Now, several days ago, as Mr. Britt indicated, he asked me to be prepared today to give you additional information about these agencies, to attempt to interpret their programs that are related to higher education, the types of projects or activities that they sponsor and the extent of participation in these programs by the North Carolina tax-supported institutions. As I take up each of these that are listed here, plus a few other, I will try to present the essence of the response that they have submitted which is reproduced here for you, and then deal briefly with each of the agencies. I will begin by discussing the programs of the Department of Health, Education, and Welfare and follow with the other agencies in the order in which their letters are arranged on the document you have before you and, as I mentioned, after referring to these eight or nine there will be a few others that I will mention in passing to whom we do not write and we do not have information from them concerning their attitudes toward

accreditation. The first is the Department of Health, Education and Welfare:

"The Department of Health, Education and Welfare administers a wide range of education and training programs, probably the broadest in scope and variety of any department of the Federal Government." The major offices under which these programs are administered are the Office of Education, the Vocational Rehabilitation Administration, the Public Health Service and its National Institutes of Health.

Grants to North Carolina senior colleges and the Consolidated University of North Carolina for the various programs administered by the Department of Health, Education and Welfare come to a large amount. Including National Defense Education Act student loan program, North Carolina tax-supported institutions anticipate that within the next two years, I am referring to the biennium we are now in that will end June 30, 1967, they will receive approximately \$43,101,000 through programs sponsored by the Department of Health, Education and Welfare.

And I will now try and describe a few of those programs under the various offices of the Department. As you will note on the document that you have in front of you on pages four and five, if you will turn to that, it's a letter from Mr. Peter Muirhead, the Associate Commissioner for Higher Education of the U. S. Office of Education, and the first agency that I want to discuss here within the Department of Health, Education and Welfare is the U. S. Office. As you note on that letter from Mr. Muirhead, Federal Aid programs administered by the Office of Education require that participating institutions be "accredited by a nationally recognized accrediting agency or association." Although alternative provisions may be made for non-accredited institutions whose credits are acceptable by at least three accredited institutions, the Associate Commissioner has stated

that "the loss of accreditation would raise serious questions as to the ability of such institutions to participate or continue to participate" in the U. S. Office of Education programs. Programs administered by the Office of Education are described now below.

National Defense Student Loan Program. Under the National Defense Education Act, "funds are allocated to colleges and universities" for loans for needy undergraduate and graduate students for the purpose of completing their higher education. "Participating institutions are directed to give special consideration to superior students who wish to teach in elementary and secondary schools or who have special capacity or preparation in science, mathematics, engineering, and modern foreign languages." All North Carolina public institutions participate in the NDEA Student Loan Program. In the past year (1964-65) loans amounting to \$2,813,000 under this program were made to 6,219 students in our public colleges in the State. It is estimated that these institutions will receive \$6,377,000 in NDEA Student Loan funds (including about three-quarters of a million in Graduate Fellowships) during the 1965-67 biennium.

National Defense Foreign Language, and Counseling and Guidance

Training Institutes. Also under the NDEA the National Defense Education Act, "the Office of Education arranges with colleges and universities for institutes in modern foreign languages for teachers in elementary and secondary schools, and for institutes designed to increase the number and strengthen the quality of counselors and guidance specialists in the nation's schools. Selected institutions are also utilized as centers for the preparation of teachers and the development of instructional materials

: in a small number of foreign languages for which there is critical need in the national interest."

In addition to the NDEA programs outlined above, the Office of Education administers many other programs, including grants for vocational education, agricultural and mechanical arts education, cooperative research, library services, Cuban refugee training, research and training related to the handicapped, etc.

Now, the next agency still within the Department of Health, Education and Welfare, The Vocational Rehabilitation Administration.

"It shares with the colleges and universities the costs, that is the office of Vocational Rehabilitation shares with the colleges and universities the cost of programs which train personnel needed in the rehabilitation of disabled persons. These programs cover the training of a broad range of specialists in social work, psychology, speech therapy, and related medical and nursing fields." In the document before you, the Chief of the Division of Training of the Vocational Rehabilitation Administration is quoted to the effect that "it would be unlikely that this office would select unaccredited institutions to receive training grants." The University of North Carolina at Chapel Hill receives training grants in the fields of medicine, surgery, physical therapy, recreation and mental retardation. In the past fiscal year eight grants totaling \$354,00 (round figures) were received by the University at Chapel Hill from the Vocational Rehabilitation Administration.

Another agency within the Department of Health, Education and Welfare is the Public Health Service and within the Public Health Service, a major activity of the Public Health Service is the operation of the National Institutes of Health: "The Public Health Service, through its institutes and

divisions, but principally in its National Institutes of Health, has large training programs in which the objectives are to increase the number and improve the quality of research workers, teachers, clinicians, and nurses in major medical and health fields. These training programs range from the undergraduate to the postgraduate level..." Other programs involve grants for personnel, equipment, and "other means for improving the research training of scientists, investigators, and clinicians" and "grants for the support of public health training." In the letter before you from the National Institutes of Health, Dr. Palmer Saunders stated that "the training grants are made only to institutions which are on accredited lists." Thus these funds would necessarily be discontinued were our colleges to lose their accreditation.

The University of North Carolina at Chapel Hill in the past year acquired 214 grants from the Public Health Service in the aggregate amount of \$7,543,000. North Carolina State University also has grants totaling over seven and one half million dollars from the Public Health Service. Now, that concludes the references that I have to the Department of Health, Education and Welfare.

Next is the National Aeronautics and Space Administration and now we're back at the beginning of the document you have.

NASA's director of Grants and Research Contracts has stated that "each proposal and/or grant is judged on its merits and in those cases where the accreditation of an institution is in jeopardy the reason would be taken into consideration."

NASA awards—that's the end of the quotation-NASA awards research grants in the biological sciences, engineering sciences and physical sciences, and for socio-economic studies. Items in the budget may include salaries for faculty, technicians and graduate assistants, as well as funds for equipment, supplies and travel.

NASA also awards research training grants to qualified universities for the selective support of pre-doctoral graduate students for the purpose of training scientists and engineers in space and related science and technology. The grants are made to the institution whose responsibility it is then to select highly qualified students to receive the three-year pre-doctoral training.

In addition, grants are made to qualifying institutions for the total cost of building research facilities needed to conduct studies in space-related science and technology. Normally these are made only to those institutions which are currently conducting substantial research on behalf of NASA and in a fairly broad spectrum of space sciences or technology.

Fellowships to foreign students are also given for graduate study at United States universities and NASA arranges visits from foreign officials and scientists for purposes of observation and consultation.

Only two of our institutions participate in NASA-sponsored programs at the present time: North Carolina State University currently has grants for research and training totaling \$777,000. The University at Chapel Hill in the year ending June 30, just passed, received two grants totaling \$207,000, one of which was a research training grant amounting to about \$186,000.

A 1962 NASA brochure states that "the principal elements considered in evaluating a proposal are: the scientific merit of the proposal, the qualifications of the principal investigator and his institution, the significance of the planned research, and the cost of the project." In the above quotation (in that quotation) the key words are "the qualifications of the principal investigator and his institution."

Now, to turn to another agency, the National Science Foundation.

The National Science Foundation "awards grants primarily on the basis of the scientific and academic merit of the proposal and the competence of the investigators. Therefore, withdrawal of accreditation would not--I'm quoting and I'll start over here, referring to the letter you have before you--The National Science Foundation "awards grants primarily on the basis of the scientific and academic merit of the proposal and the competence of the investigators. Therefore, withdrawal of accreditation would not of itself affect the award of grants from the Foundation." This statement obviously refers specifically to research grants. As in the case of NASA, the key words refer to the "merit of the proposal and the competence of the investigators." Grants are made by NSF for basic research in biological, engineering, medical, mathematical, physical, and social sciences, and to provide for personnel, equipment, services, supplies, travel, and other costs related to the research projects. These grants are usually for two or three year periods, but sometimes run for up to five years.

The National Science Foundation sponsors many types of programs and activities in addition to the research grants. These include, and there are several and I will list them:

1. institutes and conferences held at colleges and universities during the academic year, summer sessions or for shorter terms, for elementary, secondary, or college teachers, respectively;
2. matching funds for modernization of research laboratories at the graduate level;
3. exchange programs that bring together scientists from different countries to their mutual benefit;
4. fellowships for graduate students, post-doctorates, and college teachers;

5. lectures by outstanding scientists who conduct classes and seminars and meet students and faculty in order to stimulate interest in science;
6. matching funds for the purchase of scientific equipment to be used for undergraduate instruction;
7. grants to assist the institutions in the development of sound, well-balanced programs in research and teaching; and
8. a recently initiated Science Development Program. The goal of this new program is to increase the number of strong academic centers in science in accordance with carefully developed plans to upgrade the quality of science activities. Several universities in the nation have already been designated as such centers and North Carolina State University is in the process of making an application.

Approximately two-thirds of the North Carolina tax-supported institutions participate in National Science Foundation Programs. In the year ending June 30, the University of North Carolina at Chapel Hill received 30 National Science Foundation grants totaling \$1,926,000. North Carolina State University participates in grants for research, training and facilities which total \$3,127,000. On the basis of conservative estimates covering the next biennium, approximately two-thirds of our institutions will receive grants from the National Science Foundation in the amount of roughly \$12,000,000.

Now, the next agency is the Peace Corps. The Peace Corps arranges for the assignment in developing nations of American volunteers to assist in filling the need for skilled manpower. It contracts with institutions of higher education for certain research projects, the training of volunteers and the administration of some of its overseas programs. According to the Director of University Relations and Training, in the letter before you, "Loss of accreditation would not be an automatic bar to contracting with an institution of higher education. Contracts are let on the basis of the capacity of the contractor to

satisfy the requirements of the Peace Corps at the lowest possible cost. In making this judgment, the reasons for the loss of accreditation would, of course, be relevant."

The University of North Carolina at Chapel Hill in the past year entered into two contracts with the Peace Corps coming to about \$140,000. In the summer of 1964 N. C. State had a \$160,000 contract for the training of Peace Corps volunteers.

And now to the United States Department of Agriculture. The Department of Agriculture, through the Federal Extension Service, administers the Smith-Lever Act which provides for a nation-wide program of education and training through institutions that have been designated by the respective State legislatures to carry out this program. The designated institution in North Carolina for this purpose is North Carolina State University, which is responsible for organizing and conducting off-campus cooperative education programs in the State in cooperation with the Department of Agriculture. The programs, which feature public service activities for both youth and adults, include a broad set of educational services designed to improve rural life through demonstrations, conferences, and the dissemination of information in the fields of agriculture and home economics.

Now to quote from the letter that you have with reference to the Federal Extension Service of the Smith-Lever Act: The law "holds the university administration responsible for carrying its end of this joint undertaking. If the State law...which may affect accreditation conflicts with the previously passed law by the North Carolina General Assembly assenting to the provisions of the Smith-Lever Act, there would be a question as to whether or not the University had authority to carry out the provisions of the Act or whether some State entity outside the

University might exercise such authority." Smith-Lever funds administered by N. C. State University for the past fiscal year came to \$3,417,000.

The Department of Agriculture also supports research personnel and research projects in higher education institutions, and the Agricultural Experiment Stations. Current appropriations and grants for the above named purposes to North Carolina institutions total \$5,294,000 and to A & T College, \$65,000. The total amount from the Department of Agriculture and the State of North Carolina in the past year came to \$5,359,000.

The Department of State, through its Bureau of Educational and Cultural Affairs, gives grants to citizens of other countries "to study, teach, or pursue research--again I'm quoting, "to study, teach, or pursue research in accredited institutions." These international exchange-of-persons programs include American and foreign students, teachers, professors, leaders and specialists. The Department encourages and assists the presentation abroad of American performing artists; provides assistance to American-sponsored educational institutions abroad; stimulates the establishment of chairs in American studies in foreign universities; encourages study and research abroad designed to increase American competence in foreign languages and areas; and is the principal link with the East-West Center in Hawaii. Accreditation is a requirement for participation in this program, as noted above. In a recent year (1963-1964) there were forty-five foreign grantees in North Carolina tax-supported institutions under the auspices of the Bureau of Educational and Cultural Affairs: 26 of these at the University at Chapel Hill (23 students and 3 research scholars), 18 at North Carolina State University (16 students and 2 research scholars), and one student at North Carolina College at Durham.

The Department of State, through its Agency for International Development, AID, also brings foreign nationals to countries participating in technical cooperation and development grant activities to the United States or to third countries to engage in technical training, study, or observation. U. S. specialists are sent abroad to give technical assistance. AID is the principal agency concerned with helping the new nations develop their educational systems and human resources. The University of North Carolina at Chapel Hill in the past fiscal year entered into three contracts with the Agency, with AID, totaling \$492,000 for projects in Central America, Mexico and Ghana. On July 1, 1965, it began a new three-year program with AID support for training and consultation in population studies that will amount to \$267,000, almost \$268,000, this to be carried out at Chapel Hill. The North Carolina State University AID mission in Peru, which has been in operation for better than a decade, has an approved grant for next year of \$1,021,000 plus.

The various branches of the Armed Services operate tuition assistance programs under which qualified personnel attend classes on a voluntary off-duty basis. Regional accreditation of institutions attended is mandatory for the Navy and Marine Corps programs and the Army and Air Force authorize tuition payments to accredited colleges and require documentary evidence of transferability of credits from non-accredited institutions if they are to receive tuition payments. Colonel Bowman, in his letter to you that is before you, from the Department of Defense, states further that "while there is some flexibility among the Services, it is safe to say that the loss of accreditation would create problems for the continuation of tuition assistance programs." The military departments also sponsor ROTC programs for the

training of future officers, and train foreign military personnel in the United States and elsewhere under the Military Assistance Training Program.

The Department of Defense also supports basic and applied research through all branches of the Armed Services in the form of grants or contracts. These funds are necessarily in areas which are mutually advantageous to the institutions and the military services. Areas of interest include, among others, geography, physical sciences, mathematics, biology, psychology, rocketry, chemistry, medicine, engineering and ordnance problems.

North Carolina State University now has research and training grants from the Department of Defense totaling \$683,000. In the past year the University at Chapel Hill received twenty-seven grants from the Department of Defense in the total amount of \$1,651,000.

Now, the Higher Education Facilities Commission I have next. I have dealt with every agency that is named on the paper in front of you and from whom we have had letters. There are two others that I want to inject here though, programs that are administered by the U. S. Office of Education and the points made by Mr. Muirhead in his letter would apply to these two programs. One is the Higher Education Facilities Commission and the other has to do with the Office of Economic Opportunity.

The purpose of the Higher Education Facilities Act of 1963 is to assist the institutions in providing certain academic facilities (libraries, classroom and research facilities in natural or physical sciences, mathematics, modern foreign languages and engineering),

and grants are made to the colleges and universities in their efforts to accommodate rapidly increasing enrollments. This is administered by the U. S. Office of Education. As mentioned in Mr. Muirhead's letter the qualifications for eligibility of colleges and universities under this Act are accreditation or the acceptance of credits by three accredited institutions.

Appropriations by the 1965 North Carolina General Assembly for facilities that will be eligible to receive grants under this Act will permit approximately \$3,000,000 to be made available to the public senior institutions in the next biennium through this program.

Two programs which have brought funds into our public colleges through the Economic Opportunity Act of 1964 are (1) the Work-Study Program, which offers students from low income families part-time employment that enables them to go to college full-time, and (2) Project Head Start, which provides for the training of teachers employed for this Project. The administration of these programs is the responsibility of the U. S. Commissioner of Education and the same "pattern of institutional eligibility established by" the Office of Education as necessary for the receipt of other funds, which I've alluded to before, is being followed under

the Economic Opportunity Act, as you will note in the letter from Mr. Muirhead.

Fourteen of the tax-supported North Carolina senior institutions anticipate grants in the next two years under the Office of Economic Opportunity programs.

Now, I have dealt here with all of the programs from whom we have information about their attitudes toward accreditation. There are additional Federal programs in the State of North Carolina where the agencies were not written for this information about accreditation, but I have worked up information on these and have included it here because, if you are interested in the total Federal money that comes into the colleges, these ought to be included. But I do want to differentiate here. At this point I have completed with the agencies that have written letters that you have before you.

Chairman Britt: Dr. Boozer, suppose we stop right at that moment, or right at that point, and sort of sum up to try to condense here for our own information and for the information of our viewers and people here. And if you will take the memorandum which we have before us, let's see if we can sum it up something like this: (1) National Aeronautics and Space Administration. I would like for you to agree with me or disagree with me.

Dr. Boozer: Well, I have a page here in just a moment, in fact, just one page away from where I am, that does attempt to do this, Mr. Britt.

Mr. Britt: That sums it up.

Dr. Boozer: Right, I go back and pick up some of those same small quotations from the different agencies.

Chairman Britt: That will be fine. I'd just like for us to be able to try to condense it as to each one of them--does it have any effect, does it not have any effect, is it qualified. Go ahead, sir.

Dr. Boozer: Well, the other agencies that I do not have information from concerning their views on accreditation. And I'll just list them in passing. They are the Atomic Energy Commission, the Departments of Labor, Commerce, and Interior, and the U. S. Forest Service. I do have a brief paragraph here on foundations that may be worth injecting here before I go ahead with the other.

Thus far, no specific reference has been made to private philanthropic foundations. Grants from foundations augment considerably the funds available to our institutions from Federal and other sources. Major foundations generally deal with the larger, and hence the stronger, institutions. Therefore, whether or not a particular college or university is accredited is a question that is seldom raised. Some foundations, such as the Carnegie Corporation of New York, make grants only for basic research and experimental projects and have not developed policies concerning institutional accreditation. However, where foundations make general support grants on a broad spectrum, accreditation takes on added significance. For example, over the past several years the Ford Foundation has granted approximately \$750,000,000 (three-quarters of a billion) to higher education institutions over the country for general support and faculty salaries. In no case has any of this money gone to a college or university that was not regionally accredited.

Now, the remaining comments that I want to make are in the way of summary and tying this together, Mr. Britt. The first thing I have here is a tally with reference to all of these agencies I've mentioned

concerning what the institutions, the tax-supported institutions, in North Carolina anticipate they may receive in the next biennium. And I think it would be worth reading down through here very quickly without any elaboration on that.

Mr. Britt: Go right ahead, sir.

Dr. Boozer: Department of Health, Education and Welfare (and there are a number of programs under that department, as you will remember) \$43,101,000. I'm referring now to the next two years that ends June 30, in '67.

National Aeronautics and Space Administration	2,000,000
National Science Foundation	12,000,000
Peace Corps	400,000
Department of Agriculture	11,300,000
Department of State	3,500,000
Department of Defense	4,000,000
Higher Education Facilities Act	3,000,000
Office of Economic Opportunity	2,650,000
Atomic Energy Commission	725,000
Department of Labor	450,000
Department of Commerce	250,000
Department of Interior	250,000
U. S. Forest Service	<u>100,000</u>
TOTAL	\$83,726,000

Without doubt, this is incomplete. There are projects in the works, in the wind, that are not reported here at all, so this, I think very definitely, is not a complete listing. That adds up--that adds up to \$83,726,000 in the next biennium. That would be, that has reference

entirely to Federal agencies. I do have a figure on the anticipated amount in the next biennium by these institutions from foundations and other non-public sources. And that comes to \$9,567,100. This is a figure related to the total amounts appropriated and authorized by the General Assembly in the last session. This adds up to \$93,293,700.

Chairman Britt: Let me ask you at that point, Dr. Boozer, if those figures were taken into consideration in building the budget for the next two years. Do you know if that was true? That is to say, is that included as receipts in making up the budget for these institutions for the next two years? Would you know about that?

Dr. Boozer: This includes construction, like the Higher Education Facilities Commission that provides money for construction. This includes construction for certain health facilities and science facilities, for example, under NASA where they do provide for the 100 per cent cost of the facility. And, I can't answer your questions specifically, but I am sure that the institutions, primarily the University on these major ones, you know, the Consolidated University, has certainly taken these, this has all been very much into account as they have done their planning.

Chairman Britt: Pardon me, go right ahead now, sir, with the rest of your presentation.

Dr. Boozer: Well now, to summarize on the question of accreditation, we do not have information from some of these that I've just named concerning the importance they attach to regional accreditation. While some of the other agencies apparently do not concern themselves with the matter, several of them have indicated that accreditation is of great significance. With reference to the National Defense Education Act programs (primarily

the student loan programs), Mr. Peter Muirhead of the U. S. Office of Education advised that "the loss of accreditation would raise serious questions as to the ability of such institutions to participate or continue to participate" in these programs. His point also applied to programs carried out under the Higher Education Facilities Act and the Economic Opportunity Act and other aid programs administered by the U. S. Office of Education.

Under present policy, National Institutes of Health grants are made only to institutions "which are on accredited lists." The Navy and Marine Corps "permit tuition assistance /for off-duty study by military personnel" only to institutions accredited by a regional association." The Bureau of Educational and Cultural Affairs of the Department of State gives grants to "citizens of other countries under our educational exchange program...to study, teach, or pursue research in accredited institutions." These are brief statements from the letters that you have before you.

The National Science Foundation and the National Aeronautics and Space Administration both indicated that the loss of accreditation by an institution would have no appreciable effect in and of itself on grants to that institution. In both cases, the qualifications and competence of the principal researchers are of major concern in evaluating a proposal. Experience indicates elsewhere that many competent and highly qualified scholars and scientists do not remain at and are not attracted by institutions that are on probation or that have lost their accreditation.

Research administrators with whom I have talked state unequivocally that it would be useless to take the time to prepare proposals for general support, research and training directed to Federal agencies if

their institutions lost their accreditation by the regional association. Colleges and universities are in direct competition among themselves for the available outside funds. Any negative factor weighs heavily in the early elimination of otherwise worthy proposals in this highly competitive field.

The loss of outside support for research, training, and facilities in the absence of accreditation is only one of the possible ill-effects of the loss of accreditation. For a variety of reasons, accreditation of higher education institutions by the voluntary regional associations of colleges and universities is a necessity.

That concludes my statement, Mr. Britt.

Chairman Britt: Dr. Boozer, I think you have provided me several weeks ago with a list that says National Defense Education Act Student Loan Funds in N. C.-Tax-Supported Institutions 1964 and projected for 1965-67. I believe I sent copies of this list to all members of the Commission. Did all members of the Commission receive this? Dr. Boozer, for the benefit of our listeners and viewers, do you have that list before you? Would you please read that for each of our institutions, and I have several copies here. Mrs. Howell, would you hand this to members of the press as far as it will go, please?

Dr. Boozer: The total figures that appear on this list are the same figures that I used in what I just have read to you with reference to the National Defense Education Act Student Loan program. In 1964-65 for each institution we have here the number of students on each campus who received these NDEA student loans, and then the total amount at that institution for the year. And then we have extended this to the next two years, in some cases by extrapolation, to get a figure for the

next two years. The University of North Carolina at Chapel Hill last year, 840 students received these loans in a total amount of \$541,815; estimated for next year \$1,083,000. I want to emphasize that these estimates on the right hand side of this for the next two years in some cases are definitely conservative because we didn't know, we just doubled it and extrapolated. North Carolina State University last year, 900 students received the loans, \$439,000 and the amount for the next two years, 878,000. I will not bother to read that third column about the next two years, but give you the total later. The University of North Carolina at Greensboro, 300 students, \$77,989. The University of North Carolina at Charlotte, 39 students, \$12,890. A and T College, 770 students, \$257,000. Appalachian State Teachers College, 260 students, \$117,950. Asheville-Biltmore College, 20 students, \$9,500. East Carolina College, 585 students, \$227,774. Elizabeth City State College, 639 students, \$110,000. Fayetteville State College, 331 students, \$80,190. North Carolina College at Durham, 800 students, \$333,000. Pembroke State College, 129 students, \$15,000. Western Carolina College, 321 students, \$95,840. Wilmington College, 40 students, \$11,500. Winston-Salem State College, 245 students, \$105,400. That comes to a total of 6,219 students for a total amount last year of \$2,434,848. Also add on to that total the NDEA Graduate Fellowship Program strictly at the graduate level of \$378,900 last year in the State in the public institutions, which brings the grand total to \$2,813,748 for the year. And for the next two years the estimate is that the grand total will be \$6,377,430.

Chairman Britt: Thank you, sir. And before we submit Dr. Boozer for questions I want to read a couple of letters that I received from the

Ford Foundation and also from the Carnegie Corporation of New York. I found that it was impossible to get anyone from those foundations to come before us, and I wanted to give the Commission, as well as the public generally, the benefit of any statement we could receive from them.

Dr. Boozer: The estimate is that the grand total will be \$6,377,430.

Chairman Britt: Thank you, sir, and before we submit Dr. Boozer to questions, I want to read a couple of letters that I received from Ford Foundation and also from the Carnegie Corporation of New York. I found that it was impossible to get anyone from those foundations to come before us and I wanted to give the Commission as well as the public generally the benefit of any statement we could receive from them. A letter dated July 26, 1965, from the Ford Foundation addressed to me as Chairman:

"Dear Sir:

"I am afraid that there is no simple answer to your letter of July 16 on the point of whether the Foundation is using accreditation as a firm criterion in making grants. I suppose we could say that basically the criteria that we use in making grants are (1) Does a proposal have clear educational values? (2) Does the proposer have the resources to carry out his part of the proposal? (3) Are there factors which militate against the success of the proposal? There are, of course, a great many subsidiary and very important factors that are also considered such as the cost, the probable results, and the provisions for continuity if continuity is desired. However, I think we begin with the first three points I have made above. I believe it is a question for the Legislature to consider as to whether or not the law that you speak of would be viewed by an outside agency, such as a foundation, as a legislative expression of confidence in the integrity and the judgement of the institutions that may be applying for a foundation grant. I would be pretty certain that this "problem" would occur to any foundation

that might be considering an institution for a grant."

I sent a copy of our law in question to the Ford Foundation and that was the answer.

Then from the Carnegie Corporation of New York:

"Your letter of July 16 was held for Mr. Gardner's personal attention following the White House Conference on Education. Since his appointment as Secretary of Health, Education and Welfare, he has not had an opportunity to handle any Corporation correspondence and yesterday he handed me a large number of letters including yours.

"Unfortunately, I cannot give you a categorical answer to your question. Carnegie Corporation has never had a formal policy with regards to grants to institutions which are not accredited by the regional association. In practice, it has been many years since we have made a grant to such an institution, but I do not think this fact is relevant because we do not make grants for general support of colleges and universities. And the kind of research or experimental projects we do support are more likely to be found among the accredited group. I am sure the officers of the Corporation as individuals are of the opinion that decisions as to who would be permitted to speak at a State university would be the responsibility of the governing board and administration of such institutions. I should like therefore to strengthen the hands of those who are in favor of repealing the North Carolina law. As Secretary of Carnegie Corporation, however, I cannot say that this Foundation would withhold grants from the State institutions of North Carolina because of the law or because of any loss of accreditation which might result from it. Sincerely yours, Florence

Anderson, Secretary."

I'll give you that for just whatever it may be worth.

Now at this time I'd like to ask if any member of the Commission desires to ask Dr. Boozer any questions about anything that he--about any of this information that he has given us. I recognize first Senator Hanes.

Senator Hanes: Dr. Boozer, I gathered from what you said and the way you phrased it that it is your feeling we would lose millions of dollars. However, I found it interesting that, for example, you minimize, in my opinion, by reading, after you were through reading these letters, the statement from the National Aeronautics and Space Administration: "The loss of accreditation or probational accreditation of an institution would have no appreciable effect on a NASA grant to that institution."

Here under the Federal Extension Service, Department of Agriculture, you read, and I quote: "If the State law or laws which may affect accreditation conflicts with the previously passed law by the North Carolina General Assembly assenting to the provisions of the Smith-Lever Act, there would be a question as to whether or not the University had authority to carry out the provisions of the Act or whether some State entity outside the University might exercise such authority." You neglected, however, to read, and I think the people here might be interested to know that in that reply they said, "We do not believe that the status of the University in terms of accreditation would apply in allocating North Carolina's share of the federally appropriated funds."

Under Bureau of Educational and Cultural Affairs, you said, "Citizens of other countries under our educational exchange program are

given grants to study, teach, or pursue research in accredited institutions," implying that only in accredited institutions. But it goes on to say what you did not read: "The institutions so accredited are generally listed in the latest edition of American Universities and Colleges, published periodically by the American Council on Education," which is something new in here, "and in the Educational Directory, Part III, Higher Education, published periodically by the U. S. Office of Education. Both lists include institutions accredited by the Southern Association, but the Office of Education list may include certain additional institutions," which could be the University of North Carolina. I just wanted to make it clear that when I read this, I got a very different understanding and interpretation from the one you got when you read it. Furthermore, is it not true that in order to get NDEA funds, National Defense Education Funds, it would be possible without accreditation to get them by the simple expedient of having three colleges say in writing they would accept graduates from the University?

Dr. Boozer: This I said.

Senator Hanes: So, ...

Dr. Boozer: I'd like to comment, though ...

Senator Hanes: I wish you would.

Dr. Boozer: ...on these other points. This, with reference to that Smith-Lever one, the Department of Agriculture, that ought to have been picked up in my paper. I -- that's an error in its not being here. With reference to the Bureau of Cultural Affairs, you mentioned three, I did

interpret their comment to mean that, that's the Department of State, to mean that these grantees, these grants are made only to these people to study and so on--I can't find this--only in the accredited institutions.

Senator Hanes: The letter says very clearly "both lists include institutions accredited by the Southern Association, but the Office of Education list may include certain additional institutions," which presumably are not listed by the Southern Association.

Dr. Boozer: Well, the Office of Education Directory lists, as an informational source to get the names and addresses of institutions and of their administrative officers, to get basic information about enrollment and things of that kind, it lists many institutions that are not accredited. It lists many institutions that are accredited, but not by a regional group, if they are a specialized type of institution. This I interpret to be what is said here. There will be institutions in there not accredited by the Southern Association, but accredited by some other appropriate professional--if it's a professional school, for example, it wouldn't come under the Southern Association as a separate entity. The only place where I think that I do, have erred, in my paper here, is in not picking up that quotation from that Smith-Lever letter there.

Senator Hanes: Thank you.

Chairman Britt: Any questions, Mrs. Swindell?

Mrs. Swindell: Well, Dr. Boozer, then I get the impression that funds

if they were withheld, would be because of the loss of accreditation, not because of the law under discussion? Is that correct?

Dr. Boozer: Yes. I have only addressed myself here to the question of the agencies and to the question of accreditation.

Mrs. Swindell: That's right. Because the National Defense Act itself under Title X, Miscellaneous Provisions, it also requires a loyalty oath. Isn't that correct?

Dr. Boozer: Yes, it does.

Mrs. Swindell: It requires a loyalty oath. Right here, I have it. Title X. So the issue settles around accreditation, as far as funds are concerned.

Dr. Boozer: Well, the only point that I have been addressing myself to has been that.

Mrs. Swindell: Accreditation?

Dr. Boozer: That was what I was asked to do by the Chairman.

Mrs. Swindell: That's what I wanted to make plain.

Chairman Britt: Go right ahead, sir.

Dr. Boozer: There's one other comment in response to the question you raised here about, I think it was, NASA. That letter from NASA, and I believe also from National Science Foundation, made the point that accreditation per se was not significant to them. It went ahead to make the point that their grants--several principal elements are involved in

their evaluations of proposals, one of them being the competence of the investigator and of his institution. Now there a, to me, a significant point here, that the top-flight scientists and the type of people who commend themselves through their competence and their work to the NASA and the National Science Foundation are not enamored of institutions that are not regionally accredited. I think this is the point. Many of them will leave such institutions; they will not be attracted to such institutions. And that is the main point I'd want to make about that.

Chairman Britt: Senator Kirby?

Senator Kirby: I don't have any questions at this time.

Chairman Britt: Mr. Zollicoffer?

Mr. Zollicoffer: I was very interested in your comment that qualified scholars and scientists would leave a university that became unaccredited and would not be attracted to one. You must have an example. Which of the great universities have become unaccredited and have lost these qualified scholars and scientists?

Dr. Boozer: Well, I think it's appropriate for that kind of question to be directed to me. Within the last two or three years in the State of Mississippi, the State institutions in that State, all of which are under one board, governing board, were in effect, put on probation, I believe, by the Southern Association. There has been an exodus of top-flight people from the University of Mississippi. And this is documented in the recent book, they're listed by name, in a recent book by a

professor there whose name, I believe, is Silver, S-i-l-v-e-r. The book is called The Closed Society. But in the back of that he has a copy of a letter that he wrote to an editor in which he lists the names of the people from that university above the instructor rank--these are people who were on tenure--who have left since that development, and this included deans, assistant deans, and half-a-dozen people in the Chemistry Department, for example. That--that was what I had in mind.

Mr. Zollicoffer: Well, now they weren't, their accreditation wasn't taken away. According to this book of the Southern Association, they didn't become unaccredited; they weren't kicked out; they're still in this book. So they still must be accredited. There must have been some other reason, and here we're addressing ourselves to a loss of accreditation. That's what you are basing your statement on. Then where, when accreditation has been lost, has there been an exodus? We'd like to know, because of course, that's most important to us.

Dr. Boozer: Well, in the case of--I'm not really briefed, an expert on this Mississippi situation--but the State institutions in Mississippi were put essentially on probation, if not officially on probation, with reference to external interference into that system, and it was in connection with that and subsequent to that that there has been this exodus, and although they have not been, were not, removed formally from the list, it was, the situation was corrected before action was taken. But it's a tangible item with reference to accreditation.

Mr. Zollicoffer: You think it was accreditation and not the climate in Mississippi?

Dr. Boozer: Well, I'm not prepared to say the extent to which the climate may have contributed, may have been a contributing factor.

Mr. Zollcoffner: Any, any other examples strictly on accreditation where this has been this great--we'd like to--that to me is most important?

Dr. Boozer: Well, it's--it's as Dean Fields said this morning. I think he indicated he did not know any details about that.

Senator Hanes: That's what I understood him to say.

Dr. Boozer: He did mention the University of, the Georgia situation under Talmadge, back a number of years ago, and he mentioned the Mississippi situation under Bilbo, and it's my impression, from what I've heard about those times, that it took the University of Georgia, you know, years and years and years to get over the ill effects of all of this difficulty that they had. It's that kind of information that people, I think, in higher education are aware of, without being able to actually give you a specific answer to your question.

Senator Hanes: Then your statement here was based on hearsay as to what you heard happened under Bilbo and so forth in educational circles?

Dr. Boozer: It was based, in my own mind, pretty largely on what I referred to here in the Mississippi situation of more recent date. I think this is something though that college presidents, faculty people, if you were to ask them their opinion on this, you would get this response from them--that what I have reflected is a general understanding of the significance of these matters.

Chairman Britt: Colonel Joyner, any questions?

Colonel Joyner: No. I only have a request that, in order to make the record complete on this exhibit, that you furnish us, for the record, a precise copy of your letter of inquiry. It's summarized here but it's quoted only briefly. There's only one sentence quoted from it. I think we should have, to attach to this, a full copy of the form letter that you sent out requesting answer to questions. Would you be good enough to furnish that to us?

Dr. Boozer: Yes, sir.

Chairman Britt: Mr. Thornburg?

Mr. Thornburg: Dr. Boozer, by way of summary of your remarks, did I understand you correctly to conclude that loss of accreditation would in fact bring into question the continued availability of these federal and private foundation grants and funds to our institutions of higher learning?

Dr. Boozer: Well, I think in the case of some of these federal agencies this is definitely so, on the basis of what they've said in response to these inquiries. In the case of some of the others, it would not be a significant matter with them. Now, in the case--well, I--and that was the other point that I was commenting on to Senator Hanes--I think the, talking about foundations, the information on that--Mr. Britt had the letter from Carnegie which underscored really what I had said. I think maybe I talked with the same person on the telephone who, later, who wrote you that letter, I'm not sure. But the Ford Foundation program of general support to the colleges that has had so much publicity in the last six or eight years or so--that was not in terms of research projects but

just general support, faculty salaries and so on--not a single unaccredited college received a penny of that, and the unaccredited colleges in the nation, colleges that were, that lack sufficient funds to meet certain requirements in their library or facilities or whatever, banded themselves together into a national organization following that Ford Foundation grant to the accredited colleges so that they together might possibly be able to do some things that they could not do separately. And that is in attracting some outside help to help them get good enough to become accredited.

Mr. Thornburg: Did I further understand, perhaps, that you of your own personal knowledge, would indicate that there would be a good chance that loss of accreditation would mean loss of highly competent faculty members that we had in our institutions of higher learning--some of them, a lot of them, or just to what degree?

Dr. Boozer: I don't know to what degree, but I have no doubt but that it would be an important matter--an important factor. This is opinion.

Mr. Thornburg: Right. That's what I've asked.

Dr. Boozer: But it's opinion that I believe would be backed up if you were to poll the college presidents and institutional people who are in this room today.

Mr. Thornburg: I think we propose to do that later, don't we, Mr. Chairman?

Chairman Britt: Mr. Fisher, do you have any questions?

Mr. Fisher: No questions.

Chairman Britt: Mr. Myers, do you have any questions?

Mr. Myers: No questions.

Chairman Britt: Dr. Boozer, before--before releasing you, and in order to clear the air on this thing, I wish you'd take your memorandum before you and I'd like to ask each member of the Commission to do likewise, that is, the summary of these things and let's see if I have this thing summarized correctly. You list first the National Aeronautics and Space Administration. And my interpretation of that is that accreditation has no effect.

Dr. Boozer: Per se. In and of itself. Right.

Chairman Britt: All right, sir, that the National Science Foundation, no effect, per se.

Dr. Boozer: Right.

Chairman Britt: All right, sir, as far as Peace Corps is concerned, it has no automatic effect but that it might be used as a criterion. On page two, second paragraph, "Loss of accreditation would not be an automatic bar to contracting with an institution of higher education." All right, sir. On the fourth one, Federal Extension Service, Department of Agriculture, and of course there's where our State College or State University comes in, in administering the farm program in the State, that it has no effect unless a law passed by the General Assembly conflicts with the Smith-Lever Act which created that program. And, of

course, apparently the Speaker Ban Law has nothing to do with the Smith-Lever Act. You don't know of any conflict?

Dr. Boozer: No, I do not.

Chairman Britt: So, as far as the Federal Extension Service of the Department of Agriculture is concerned, there will be no effect on our program, would there?

Dr. Boozer: Right.

Chairman Britt: All right, sir, now we're on page five. Bureau of Educational and Cultural Affairs. I believe that letter says this: "Citizens of other countries under our educational exchange program are given grants to study, teach or pursue research in accredited institutions."

Dr. Boozer: That--that's what I took to be a flat statement. Senator Hanes, that was one that you raised with me.

Chairman Britt: All right, sir. Now on six, that is, the Office of the Assistant Secretary of Defense, Department of Defense, and so on, I believe there that I've underscored this: "The Army authorizes tuition payments to any accredited college or university and to nonaccredited schools if they can show documentary evidence that their credits are recognized as fully transferable by any fully accredited college." That's the procedure.

Dr. Boozer: That's right. That's the Army.

Chairman Britt: Yes, sir, that's the Army. Now, the Air Force would have

the, would have the, same qualifications. And the Navy and the Marine Corps requires accreditation by a regional association.

Dr. Boozer: Right.

Chairman Britt: All right, sir. Now as far as the National Institutes of Health is concerned, there it would have to be accredited.

Dr. Boozer: Beg your pardon?

Chairman Britt: It would, under the National Institutes of Health, U. S. Public Health Service, I believe it says that it would not have to be accredited, but "under our present policy, training grants are made only to associations which are on accredited lists."

Dr. Boozer: It says here "there would be no effect on grants under any of our programs with the sole exception of training grants." That's the one in which they do have that requirement.

Chairman Britt: Yes, sir.

Dr. Boozer: Right.

Chairman Britt: And then the big one, which is U. S. Office of Education, and deals with the biggest money I think we've been talking about, isn't it?

Dr. Boozer: Yes. The Department of Health, Education & Welfare was the biggest grand total. The National Science Foundation and the National Institutes of Health, Public Health Service, may have more money than the U. S. Office of Education itself, but I'm not sure about that.

Chairman Britt: But the point I'm making is, from the U. S. Office of Education, accreditation is not required, but the institution, if it is not accredited, it must be "an institution whose credits are accepted on transfer, by not less than three institutions which are so accredited." So that would be the procedure on that. Then, as far as the Vocational Rehabilitation Administration is concerned, accreditation is definitely required by that group.

Dr. Boozer: Now, let's see.

Senator Hanes: For training.

Chairman Britt: For training only. Page five, bottom of the page.

Senator Hanes: Wouldn't affect research and demonstration grants.

Chairman Britt: It's just a matter of trying to clear the air on this and trying to sum it up as best we could. Any other questions? Senator Hanes, do you have another question for Dr. Boozer?

Senator Hanes: I was curious as to why the University of Mississippi was put on probation. Was that a political fight too?

Dr. Boozer: I am just recollecting what I remember on the news and all of that back at that time. But this had to do with the Governor of the State interposing himself between the trustees and the administration of that institution and the institution itself. He took it over, physically.

Senator Hanes: How long ago was this?

Dr. Boozer: This was in connection with the Meredith case.

Senator Hanes: Oh, I see.

Dr. Boozer: That's what it is.

Chairman Britt: I believe Colonel Joyner has another question he would like to ask.

Colonel Joyner: Dr. Boozer, isn't it a fact, and correct me if I'm wrong, that the Minutes of the College, of the Association of Colleges, show that they were greatly upset about the Governor of Mississippi threatening to interpose himself and stand there in front of the students, and that he did not do that, and therefore they withdrew it. That may have been Alabama; I'm not sure about that.

Dr. Boozer: I--I'm sorry. I don't--I haven't made a research or study of this and I don't recall the details.

Colonel Joyner: But at any rate, it is your recollection that it was addressed to the individual action of one man and that was the Governor.

Dr. Boozer: That's my impression from reading back at that time.

Colonel Joyner: That was my impression.

Chairman Britt: Dr. Boozer, we certainly appreciate your appearance, appreciate the work that you've done on this matter for us and the information you've assembled and, with that, we will excuse you with our thanks.

Dr. Boozer: Thank you, sir.

Chairman Britt: Now, I'll say to members of the Commission that that, and to our visitors and guests, and so forth, that concludes our agenda for this afternoon and for today.

HEARING BEFORE SPEAKER BAN STUDY COMMISSION

State Legislative Building

Raleigh, North Carolina

Thursday, August 12, 1965, 10 a.m.

American Association of University Professors

HEARING BEFORE SPEAKER BAN STUDY COMMISSION

State Legislative Building
Raleigh, North Carolina
Thursday, August 12, 1965, 10 a.m.

Hearing before Speaker Ban Study Commission
State Legislative Building
Raleigh, North Carolina
Thursday, August 12, 1965, 10 a.m.

This morning in the State Legislative Building in Raleigh, the Commission to Study the Speaker Ban Law begins its second day of hearings on the Act of 1963 General Assembly which created the controversial law. The hearings are being held in the auditorium on the third floor of the Legislative Building. Live television cameras will broadcast full coverage of the hearings by WUNCTV in cooperation with participating television stations and the NCAB. On WUNCTV the hearing is being telecast in its entirety without interruption or comment and will be re-broadcast tonight at seven o'clock. Representatives of the American Association of University Professors and the American Legion are scheduled to be heard in today's session. And now, here is Chairman David M. Britt.

Chairman Britt: Ladies and gentlemen, this is the second day of hearings being conducted by the Commission appointed to study the Speaker Ban Law and any other related statutes. I think it might be well at this time for the information of our visitors who are here for the first time this morning and also for people who may be listening in on radio or viewing on television for the first time to give just a very brief summary or background of what this is all about. I will not go into the detail that I did on yesterday but suffice it to say that the 1963 session of the General Assembly passed a law which has come to be known as the Speaker Ban Law; a bill to regulate visiting speakers at schools and colleges in North Carolina who are supported by the State. After the 1963

session considerable discussion arose as to the effects of this law, as to its impact on educational institutions and so forth and so at the 1965 session of the General Assembly, this Commission was authorized for the purpose of studying the law, studying any related statutes and then making recommendations to the Governor, to the General Assembly as to its findings and as to what this Commission felt should be done. On yesterday we held our first day of hearings and yesterday morning heard from representatives of the Southern Association of Schools and Colleges. On yesterday afternoon we received information directed primarily to the question of the effect of accreditation, upon receiving aid, loans, grants, and other benefits from federal agencies and also from certain private foundations. Most of the afternoon session was devoted to that inquiry and receiving information on that point. I think it might suffice to say that without introducing the members of this Commission individually at this time as we did yesterday, two of whom were appointed by the presiding officer of the Senate, Lt. Gov. Robert Scott, two of whom were appointed by Speaker of the House Pat Taylor, and five of whom were appointed by Governor Dan K. Moore. I think it will suffice to say that this Commission is diligently trying to find the answers to the questions that have been raised regarding this particular law. And in our questions to people who are invited to appear before us and people who come of their own accord, members of the Commission may appear at times to be slanted in one direction or the other on this question, but I certainly hope that all of you will realize that we are trying to find the answers to the questions that have been raised. In a typical law suit, so to speak, you have one side that is championing one side of the issue and another side that is

championing the other side, but here we are certainly trying to conduct an independent inquiry and it behooves each member of the Commission to try to ask questions raised whether they sound favorable to this proposition or against this proposition. Now this morning we are going to have a presentation and have before the Commission representatives of the American Association of University Professors. The entire morning session will be devoted, so far as we can tell now, to hearing from these people. This afternoon, beginning at two o'clock, we will hear from the State Department of the American Legion who have asked to be heard on this matter; and the entire afternoon session will be given over to that organization. Now at this time I would like to introduce the four representatives that we have here from the American Association of University Professors, where they are from; and they are going to sit as a sort of a panel this morning - the four of them - and as questions are asked by members of the Commission at the appropriate time, then it would be up to the chairman of that group to refer the questions he sees fit to members of the panel. Now starting overlooking at the four - and to my left - the first of these gentlemen is Dr. William P. Fiddler, who is general secretary of the Association, and from Washington, D. C. Sitting to his left is Professor John P. Dawson, first vice president of the Association, and Dr. Dawson is a member of the faculty of the Harvard University Law School, and will serve as chairman of his group in this presentation this morning. Sitting to Dr. Dawson's left is Professor William Van Alstyne of the Duke University Law School. And sitting to his left is Professor Frances C. Brown, also of the Duke Faculty, who is second vice president

of the American Association of University Professors. At this time I am going to recognize Professor Dawson to make such presentation as he sees fit, and then to call on members of the panel as he sees fit for formal statements after which the Commission members will proceed to ask their questions. Dr. Dawson -

Dawson: Mr. Chairman, members of the Commission, we are most grateful for the opportunity to appear before the Commission to express our great concern over the statutory restrictions now in force on speakers at state-supported institutions. We welcome the chance to discuss with you the reasons that make these restrictions seem highly undesirable.

The American Association of University Professors is an organization of nearly 75,000 faculty members found throughout the fifty states. In addition to our national headquarters, our Washington, D. C. office, we have 49 state and regional conferences and approximately 900 organized local chapters at individual colleges and universities. Here in North Carolina we have 27 chapters, representing all your major institutions of higher learning and many of the smaller ones; our total North Carolina membership runs in excess of 1800.

Our national office has been greatly concerned over the Speaker Ban Law. We first indicated our concern by telegram during the brief 24-hour period over two years ago when the ban was enacted into law, and we have since restated our opposition several times in communications to legislative and executive officers of the State of North Carolina. We have believed it to be our duty to speak in this way on behalf of the academic profession, because so far as we can discover no other State now has legislation that interferes so drastically with

the autonomy and the academic freedom of educational institutions.

In other states where such legislation has been proposed recently it has been rejected or so greatly modified as in effect to confirm the principles that we advocate.

In a separate statement reasons will be presented to you for believing that the law is unconstitutional. In this statement we will address ourselves rather to the broader policies and purposes in higher education that were commonly taken for granted until this challenge was raised.

It is not necessary to remind you that advocating the overthrow of the government, by force, violence or other unlawful means, is already a crime under the North Carolina statute passed in 1941. The coverage of the 1941 statute is wide. It includes advocacy in any public building or through any institution supported in whole or in part with public funds. Surely no more than this is needed.

We shall not lay special stress on the objection raised by others, that administrative decision is wrested from the trustees, presidents, and faculties of North Carolina's public institutions of higher learning, although we join with those in the academic community who find this to be in itself a serious objection.

Our main objection to the ban is that it invades an area which has been the central concern of this Association in the half century of its existence: the Speaker Ban violates academic freedom. What we urge upon you is a conception of a university in a free society. For university students to be educated and for university faculties to learn

and to teach, freedom to examine all shades of opinion must be present. Scholars in a free society must have the right not only to read about all points of view in printed form but to meet with the holders of opposing views, to see and hear them, to question them and to argue with them. Once we admit that speakers can be banned, no matter how peaceable, lawful and politically neutral may be the themes that they discuss, we have taken a long step toward the thought control of which we hope to rid the world.

From the days of the first colonists to the education bills being passed by the current Congress, the people of this country have shown a healthy respect for knowledge as an indispensable element of a fruitful life. The creation and enlargement of knowledge, its safekeeping and diffusion, are guarded by academic freedom. Academic freedom is merely a specialized facet of freedom in general. In the words of a former President of our Association, (I now quote)

Academic freedom consists in the absence of, or protection from, such restraints or pressures -- as are designed to create in the minds of academic scholars (teachers, research workers, and students in colleges and universities) fears and anxieties that may inhibit them from freely studying and investigating whatever they are interested in, and from freely discussing, teaching, or publishing whatever opinions they have reached.¹

Some would argue that the general Constitutional guarantee of free speech covers sufficiently the freedom of academic persons and that the academic community in claiming academic freedom is demanding a

¹Fritz Machlup "On Some Misconceptions Concerning Academic Freedom, "AAUP Bulletin, Volume 41 (1955), p. 754.

special privilege solely in its own interest. But its purpose is to benefit society as a whole, at least as much as the group in question. In actual experience, only a small minority of the academic community ever has occasion to write or to say things that offend the opinions of others. Our physicists and chemists, our mathematicians and physicians, go on quietly doing their work, transforming our society before our eyes. If they get into the newspapers it is only because their discoveries and achievements are newsworthy. But there are some areas, mostly in the social sciences, where academic work -- learning and teaching -- deals with matters on which our citizenry generally has strong, deeply held convictions. Here too, however, it is important that the unorthodox few should be encouraged to voice their dissent, because from dissent, however unpopular, knowledge can advance and material, social, or spiritual improvements can be made. It is the people at large who have a right to learn the results of unfettered scholarship, who have a right to the cultural and material results produced by scholars who are free to make honest mistakes without fear of reprisal.

As to the general comments which have just been made, I hope and will assume that we are all so far on common ground. The Speaker Ban Law of 1963, which we are here to discuss, seems to aim at a different target -- primarily that of protecting the minds of students from dangerous thoughts. The statute refers to three classes of persons: "known" Communists, persons "known" to advocate the overthrow of government, and those who have at some time pleaded the Fifth Amendment.

Mr. Chairman, if I may for a moment depart from my text to make a correction in the text as distributed to you, in the second category, I had by mistake included the adjective "violent" before overthrow of government - persons known to advocate the violent overthrow of government. I should confess that most of this statement had to be read, dictated over the telephone long distance so that some errors crept in. One very crucial point, of course, about the statute is that it does not refer to violent overthrow as does the 1941 statute. Those who are "known" to advocate the overthrow of government would be the second category of persons as I read the statute. Now I do not need to say that there are a great many, I would say, very respectable people in North Carolina who are very anxious to overthrow the present government of North Carolina - (laughter) - who are doing their utmost. I hope they do not succeed. But I shall return to this and other themes to the cloudy language that defines these categories. But if I am right in reading the statute as having the object of protecting supposedly immature minds, there are several things to say.

First of all, the appraisal of our students that is implied by the statutes does our students a great injustice. We should consider that many men of their age have been willing to die for our country, in the last great war, in Korea, and now in South Viet-Nam. There will be more who will soon be called on again to risk their lives. The record does not show that young men and women of student age lack courage, devotion, and understanding. They surely can be trusted to learn the great stakes in our world-wide contests. They can see through the false

arguments of our opponents as well as their elders do. They have a right to hear everything that can be said on these issues, to measure those who hold ideas we consider obnoxious, to see and hear these men if they want to. The surest way of demonstrating how threadbare and also harmful these ideas are is for their proponents to speak out and expose themselves. It is better to have these persons brought out into the open than to give them some mysterious added attraction by leaving them to work underground.

For academic freedom, we believe, is not confined to teachers. Education is a process of opening minds through learning and thinking. As soon as we mark certain thoughts as too dangerous or impose a ban on the carriers of those thoughts, we confess to a weakness that few of us feel. There are lines very carefully drawn in our constitutional law between advocating violent overthrow of government and discussion of ideas not directed toward action. When that line is crossed we have sufficient legal means to deal with the offender, and so even the person who openly admits his membership in the Communist Party should be allowed, we believe, to speak on university campuses -- let us say on dialectical Marxism -- to those who are curious to hear him. It is still more clear that a Russian physicist should be allowed to speak on physics. A Russian law professor should be permitted to teach American students about Russian law, as was done recently at the Harvard Law School. Ideas cannot be barred from our country by building great walls, and if they could, why try? We can learn even from our enemies. In fact, the greater the enmity, the greater the need to know about them,

and so in principle we oppose such bans on speakers. We believe our society has nothing to lose and everything to gain by open, free discussion. Especially is this so of centers of higher education which are committed to free inquiry because that is the essence of their whole enterprise.

As to the language of the statute itself, some further comments are needed. The first category of banned speakers is that of "known" members of the Communist Party. Known by whom? Members of one well-known political society "know" that President Eisenhower is a Communist. I myself do not believe that. Actually most members of the Communist Party in this country keep their own membership a secret. Even more obscure is the second category of persons who are "known" to advocate the overthrow of the government which does not appear in the statute. As I read the statute it carries no direct criminal penalty, especially directed toward university boards, administrators, and faculties, but it is a very serious matter to throw on trustees, educators and faculty groups the risk of violating a statute that is certainly meant to be obeyed but that gives so little guidance that the only safe course would be to draw the line far short of any possible violation.

The third category in the statute is the group of persons who have invoked the privilege against self-incrimination in official inquiries into their "Communist or subversive connections." The serious constitutional questions raised by this clause will be discussed in a separate statement, which I believe has already been filed. Whether constitutional or not, we believe this provision is unwise and wrong. Like the other two, this category applies not only to visiting speakers but to "any

person" -- that is, to faculty members as well. It is indeed a serious matter to say that any person who has invoked the Fifth Amendment at any time in his life is permanently disqualified from teaching in any public institution of the State of North Carolina. This is in substance a bill of attainder for relying on a federally guaranteed constitutional right. Invoking the privilege against self-incrimination is no proof of guilt and legally cannot be made into proof of guilt. We know that in many instances the motive has been to protect others rather than the one who invoked the privilege himself. But even if the motive was to protect himself, do we not recognize that men can change their minds and repudiate the errors of the past? As part of the general ban on outside speakers, this provision is purely punitive and unrelated to any rational purpose. As a test for appointments to faculty positions, it encroaches severely on the powers of state institutions in the choice and recruitment of teaching personnel.

The State of North Carolina has been known long throughout the nation for its leadership in higher education. This leadership could not have been maintained without the active support and enlightened opinion of its citizens throughout the State. The American Association of University Professors, speaking for our members and for the permanent interests of higher education in America, urge the legislative leaders of this great State to repeal the statute outright.

Britt: Dr. Dawson, I assume that it would be in order to ask you or anyone else questions about the statement which you have made and any related matters to that; and then, as I understand your plan, at a later--

--plan a presentation at a later time, when we'll talk about the legal aspects of this law. Is that the procedure which you have in mind?

Dawson: It is entirely your pleasure, Mr. Chairman.

Britt: At this time, we will ask the Commission members who desire to direct their questions to Dr. Dawson, and I recognize first Senator Hanes.

Hanes: Dr. Dawson, we are here in a dual capacity. First to get as many facts as we can on a subject which has been regarded with a great deal more emotion than logic, and secondly to try to determine what action, if any, we should and can recommend logically, either to a special session of the General Assembly or to the next General Assembly. We tried yesterday, and without much success I might add, to get from the Southern Association representative some indication of what he believed would be a logical course of action. I would like, therefore, to direct a couple of questions, which I don't believe were properly answered yesterday, and probably for some reason because of his position but which, as a representative of the professors and also a Harvard man, I am sure you won't hesitate a moment to answer, having been a graduate of Yale myself. First of all, suppose this law instead of being a law were a regulation adopted by the Board of Trustees of the University. What in your opinion would be the attitude of the professors?

Darson: Those who share our views, and we believe this represents certainly not 100% of the academic profession but a very large majority - a very large majority - would, I think, for the reasons given today oppose

action whether by statute or administrative regulation of a governing board for the same basic reasons.

Hanes: Well, that's interesting because I got the feeling that they felt that we should rely entirely on the Trustees and if this were done, that their objections would be more or less satisfied. A study has been made of a number of colleges and universities of which you may be aware - some 90 - in which it was made clear that while North Carolina is the only state having such a law, the regulation in other states results in a rather interesting fact that, as far as I could determine, the University of Virginia was the only major college or university who has in fact had a Communist speaker within the last couple of years. I believe Gus Hall spoke there. This caused such a furor that the trustees went into special session and immediately passed certain rules and regulations which, in essence, did approximately the same thing that ours did. I have written to all of our adjoining states, and those universities have written back that while there is no prohibition, either by law or by the Trustees or by the administration, we have not - and each one of them said this except Virginia - had a Communist speaker. Now why would this be?

Dawson: Well, sir, I have not, of course, attempted the census that I am sure the Commission has been making as part of its duties. I can only speak from my own experience. Most of my professional life was spent at the University of Michigan, so.... potential disagreement between us can be tapped on, and I am sure--I know--that throughout the State of Michigan by agreement of all the institutions of higher education, there has been an elimination of any restriction on radical speakers, including the Communist. And, I--I can't give you the names, but I have read in the papers from my hometown, Ann Arbor, that such speakers have appeared there. Of other states I cannot speak with confidence, but I am sure that there are a number of institutions--state institutions--in which any ban has been removed and protests against speakers (Communists) have been rejected, in effect, by the administrations. I can give you one example at Harvard University. The law school forum brought an officer of the Communist Party (I believe it was Gus Hall) and he appeared with a panel of others who were there to refute him, and I don't think it's a secret that he was introduced by the Dean of the Harvard Law School, Irwin Griswold, who would be the last person to be suspected of any subversive tendencies. So that I can say that there are many institutions, many--I should say most of the great institutions--in which speakers do appear of very left-wing views. Now beyond that I cannot go, Sir.

Sen. Hanes: Do you know of any serious ill effects that have resulted

from this?

Dawson: I think the general atmosphere in the places where this has been made clear has been enormously refreshed. The nation, the students, if they want to, are free to hear opinions which they can learn to discount and analyze. To me, it is incredible that there could be harm. There is a great sense of relief, I feel, and indeed of some pride, at Harvard. There was never a question raised about the propriety, not only of the speaker, but of his being introduced by the Dean, who had made sure that there were plenty of qualified refuters present to deal with whatever views were advocated. That you can have this kind of discussion in a university community, I think, has added enormously to the sense that this is a mature enterprise of people who can be trusted to find their way.

Hanes: One further thing--most of the information that I have had from people who have been to such lectures, talks, etc., the word most often used to describe the proceedings has been "dull." Would that be....

Dawson:I didn't even bother to go to hear Gus Hall, I mean it's utter waste of time. And what he tells you is bound to be just stale repetition of the old ideas, and yet, why should'nt he be free to go on "stalely" repeating?

Hanes: That's all.

Swindell: Yes, I'd like to ask a question, or rather discussion, towards anyone who would like to answer it. I first see that you are concerned because of the loss of academic freedom that this law would bring.

And also, I want to ask you about if you know anything about the result of this and the exodus of professors from the Ohio State University.

Now you operate in all 50 states so I assume that you know about that.

I will just read a little of this law and then I will read just a few lines of what the Board of Trustees adopted.

Dawson: At Ohio State?

Swindell: Yes, at Ohio State. And then I would like for you to comment on it both from the point of loss of academic freedom and from the effect on the University if you happen to know. Now, the legislature of Ohio adopted this law which says, "Such powers shall include, but not be limited to, the authority with whole use of the facilities of any such college or university for meetings or speaking purposes from persons who are members of the Communist Party, persons who advocate or persons who hold membership in, or support organizations which advocate the overthrow of the Government of the United States and its free institutions by force or violence, or whose presence is not conducive to high ethical and moral standards or the primary educational purposes and orderly conduct of the function of the institution."

Now that was the law that was passed. Now the Board of Trustees enacted this provision. It's very short and I'll not take long. "If a member proposes to invite someone to speak on the campus or under university officers, and there exists a doubt as measured by generally accepted standards as to whether the proposed action would be in the best and overall interest of the university,

appropriate consultation through proper channels shall be initiated by the faculty member concerned. Judgment as to what constitutes generally accepted standards will vary with times and places but without attempting to define or to limit the phrase, those who are subversive or those who are allied to them in purpose or action, and those whose views do not constitute in some way to the university's educational program, are not acceptable as guest speakers." Now, can you tell me, is that limiting academic freedom?

Dawson: Yes, madam, yes, madam, as I understand the regulation of the trustees, this delegates to the president the decision as to suitability of a speaker.

Swindell: Well, now this is what.....?

Dawson: Yes, I understand the history and the debates on the subject and as I get it from the reading of the language, which I have not myself read. Well, our colleague, Professor van Alstyne, will speak later about the history of the Ohio legislation which was adopted in the Bill of the Act we now have under discussion today. The original draft in Ohio was the one that was adopted in North Carolina after prolonged debate in the legislature was substituted the provision which you now read, which delegates the decision to the Trustees with language which indicates that they have a legal power--statutory power--to exclude, we shall say, subversive speakers. This legislation was proposed in Ohio after debates had been going on for, I believe, something like two years over the regulations of the Trustees

and the action of the president under the trustees delegation. This debate I can speak of personal knowledge of this, since as I say, I am essentially a middle westerner, and I knew many of the Ohio State law faculty who were very much involved in this question. The deterioration that has occurred in Ohio State University -- one of the great state universities in the past-- is, as in all these matters, hard to define. I can say that in about three departments (I get this now from direct testimony of faculty friends of mine at Ohio State) at least half the faculties have left primarily because of the speaker ban and the turmoil that it has engendered over the issue of freedom of speech.

Mrs. Swindell: Half the faculty?

Dawson: Of the particular departments. The funny thing about it, I think, is that it seems to work generally when deterioration occurs it gets concentrated in particular sections of the universities, a universitywide phenomena. But some of these being in scientific departments where people are very hard--and good people are very hard to get and keep these days. The English Department has lost about half of its mature teachers. And I talked myself to four members of the Ohio State law faculty--law, history, and English Departments, who have left primarily because of the speakers ban. Now this is a matter in which others of our group will speak today but may I just comment generally about this. A great institution does not fall into decay suddenly I would not predict--even through a very serious flagrant violation of academic freedom in an individual case, I would

not predict a general and immediate exodus. Our faculty people are not highly migratory. They tend, like others, to get married, to have children, their children go to school, they make friends, they don't like to leave, but they are in a profession in which money is not the primary incentive, where the conditions of work, the atmosphere will have a tremendous influence upon their effectiveness and their satisfaction in their work. Where the departures begin they'll generally be of the better abler people. When the decay starts it's progressive and it's very hard to arrest, now I'm sure, your questions addressed to the general issue...what would be the consequences of a serious conviction spreading that academic freedom was being violated on a large scale in North Carolina. Well, all I would like to say is, I trust that nothing happens in North Carolina that can be in any way compared to the tragedy of Ohio State University.

Mrs. Swindell: Well, let me ask you one more question then. You do not think that even this authority should be vested in the Board of Trustees?

Dawson: Well, madam, I would understand, I haven't read the North Carolina Constitution on this but I would understand that it is within the general governing power, of a governing board, to set regulations on the use of the institution's premises, that a grant of such authority is hardly needed - it already must exist. And the question of whether it should be exercised by the governing board in such a way as to impose the total ban on speeches by any of these three categories, this is an issue of ultimately of law, but it seems to me primarily of

educational policy which should be thought out, and decided, after prolonged debate and consideration. How it should be decided, we have indicated, we believe we are very clear that such bans are most undesirable.

Mrs. Swindell: On the part of either the legislature or the trustees?

Dawson: Yes, madam.

Mrs. Swindell: Thank you very much.

Britt: Senator Kirby.

Kirby: There are just a couple of questions I'd like to ask you, Doctor. Yesterday we were unable to get an answer from Dean Fields as to whether or not Harvard is an accredited institution.

Dawson: Sir, I never stopped to inquire. I had assumed it was.

Kirby: You mean to say you don't know either.

Dawson: Yes, sir, but I'd be really very surprised if it wasn't.

Kirby: All right, from what you have said, Dr. Dawson, I assume that you would defend the right of, say, the far-right speaker to appear on any campus just as you would the speaker for a far-left organization?

Dawson: Most emphatically. Oh, most emphatically. Yes, indeed.

Kirby: In other words, you would have no restrictions at all as to who might appear?

Dawson: I say there should be restrictions on the content of his advocacy, and the manner and form and effect of his advocacy, but on his person. Rockwell, the leader of the Nazis, Malcolm X, pro-

poses violence but if he doesn't come to organize and advocate violence, I think Malcolm X is a very interesting personality. I think our students should have an opportunity to size him up. Now whether he is right-wing or left-wing, I don't know where he falls.

Kirby: Just as a matter of interest, what subjects do you teach at Harvard Law School?

Dawson: I do not, sir, teach constitutional law. I never have. I teach contracts and restitution.

Kirby: That's all.

Britt: Mr. Zollicoffer.

Zollicoffer: I'd like to know something about the organization--your organization. How do you get into it, who's qualified to get into it, who runs the organization? Do you have a board of regions, a board of governors, trustees, directors, who makes your decisions, your policies?

Dawson: Mr. Chairman, could I take advantage of the privilege which I think you conferred on me of fielding questions that can be better answered by others, but let/just say first it is a voluntary membership organization, to get into which you have to pay \$10. But Mr. Fiddler can tell you the rest.

Fiddler: Well, Senator, the organization was founded in 1915 and as was indicated earlier, there are 75,000, approximately 75,000, members at the present time. One fills out an application form for membership. He is in one of several categories. If he teaches at least half time or more, we call him an active member and if his salary is

above \$6,000, he pays \$10 a year dues. If he makes under \$6,000 a year, he pays \$8.00 a year dues. We have as our central governing body a council of 37 members, 20 of whom are elected in geographical districts of our nation, and the others are officers of the association who are elected by ballot. To say that this is the central policy-making body is, I should point out, there are other policy making bodies, too. For instance, our annual meeting of delegates that assembles once a year has the power to make certain decisions regarding the policy of the association. This past year, meeting here--meeting in Washington--excuse me--we had over 700 qualified delegates who helped to make decisions regarding policy. Many other policies are recommended by a group of some 12 or 14 standing committees in the various areas of higher education. They present their recommendations and reports to our governing council, as we call it, and under the constitution the council has the authority to move forward in the implementation of some of the policies recommended by our committees. Now we have established, we have formulated also, a certain number of policy statements, one of which will be referred to later in my presentation dealing with academic freedom and tenure, a policy statement which has been adopted by some 35 learned societies of America, and which we do our best to police and implement as I shall point out later. These policy statements have been widely accepted by the academic profession. We are upon a policy statement dealing with professional ethics. We are dealing with a policy statement on the

academic freedom rights of students. We have a policy statement we are working on with respect to the duties and obligations of the three segments of higher education, the trustees, the central administration, and the faculty. I believe that covers, in the time that I have, the nature of our operations.

Zollicoffer: I take it that it doesn't make any difference what type of degree you hold. As long as you teach at least 50 per cent of the time, then you can join your organization? You don't have to be a doctor or a professor, you can just be Mister as long as you teach?

Dawson: That's correct.

Zollicoffer: Now I assume you have already adopted a policy, your organization or board has, on lectures and speeches, or speakers at universities and colleges. You have such a policy?

Dawson: We have resolutions. I do not have them before me. I can supply such resolutions to this committee if the chairman so wishes, on the matter of the speaker bans or visiting speakers.

Zollicoffer: Then after this was--this bill that's in controversy--was passed by the North Carolina General Assembly, I take it you did not contact the 37 members of your council before sending a wire opposing the enactment. You just saw that it violated one of your policies or resolutions and you put the organization on record as being opposed to it without any meeting of the group because in your opinion it violated the policy.

Dawson: The time factor, was of course, the central one. I might add that we have exchanged views between our Washington office and

the council and the various committees on numerous occasions regarding policy issues of this kind. This kind of issue has come up before our largest, and perhaps best known, committee -- the Committee on Academic Freedom and Tenure. There was not the slightest doubt in my mind that there was unanimous agreement within this particular committee, and I believe within our 37 member council, and the council permits me the authority to move quickly when time is of the essence.

Zollicoffer: Of course what I was referring to is the telegram within 24 hours after it was passed.

Dawson: Yes, I sent that after discussion with members of my staff. Now I might have called the chairman of Committee A, or the president, I don't recall at the moment. It was almost three years ago so I don't remember whether I telephoned them or not, but I often do.

Zollicoffer: Now you had a copy of this bill at that time ?

Dawson: We were -- as to whether the bill -- it had, I believe, been read to us over the telephone. Is that not correct, Professor Brown? It had been read to us over the telephone.

Zollicoffer: If someone here called.....

Dawson: In North Carolina.

Zollicoffer: Was it a professor or a member of your organization called?

Dawson: Not a member of our organization.

Zollicoffer: Do you know who it was? Then your organization became aware of it through Mrs. Brown calling and notifying you and based on

that it violated one of your policies or resolutions so you went on record as being opposed to it?

Dawson: Yes. I've just been reminded by a colleague that the telegram itself was sent in before the bill actually passed. We got the telegram off before the passage of the bill. But we knew the content of the bill.

Zollicoffer: Then you.. Of course, the bill passed as I understand it in a matter of less than an hour so you were advised of what was in the bill before it was introduced.

Dawson: Well, we have been informed of a twenty-four hour period. Your, your statement of an hour period is the first time I've heard that. The information we have that both ..

Zollicoffer: It was ratified.. it was passed by both Houses, I believe within a couple of hours, or something like that and then ratified the next day. So possibly you are referring to before ratification.

Dawson: Well, yes.

Zollicoffer: You didn't have a copy of it before it was introduced?

Dawson: No, we did not.

Zollicoffer: Mrs. Brown.

Mrs. Brown: I found out about it in the morning newspaper, and went to work.

Zollicoffer: Professor Dawson, in reading your statements on page 3, particularly the quote from your former president of the Association, his definition of academic freedom--would not the 1941 law also violate academic freedom in your opinion?

Dawson: The '41 law?

Zollicoffer: Yes, sir.

Dawson: Which makes it a crime to advocate?

Zollicoffer: Yes, sir.

Dawson: Violent overthrow of the government. No sir.

Zollicoffer: Not to talk about it. It would not -- do you think academic freedom would not involve a discussion of overthrow of the government?

Dawson: Why, no sir. It seems to me quite clear that, while the line cannot be sharply defined in advance, much of the effort of our lawyers and judges is to define and clarify this issue. When you cross the line between discussion of ideas and advocacy of action, and as to the notion of repealing the statute, or considering it a violation of academic freedom, it seems to be quite clear that the government must have means to prevent and to punish advocacy of its own overthrow by violence and unlawful means. I have no quibble... I have no question...

Zollicoffer: You don't quibble then with the '41 law at all?

Dawson: No, nor have I ever heard that anyone in our association has done so.

Zollicoffer: Now, ah, of course...

Dawson: The question is, excuse me sir, the question is how should it be interpreted, how far can it be carried? Well, this is a problem fundamentally of constitutional law.

Zollicoffer: Now, I believe the .. one of the basis of the Communist Party is they advocate the overthrow of our government. That's what I understand. Is that your understanding?

Dawson: It might well be, sir, but I don't believe they do it every day all day. They talk about other things.

Zollicoffer: Now, I believe your organization advocates, or supports, the fact that Communists should be allowed to teach and have members of the faculty in our colleges and universities? Is that correct?

Dawson: I believe there has been a resolution in those general terms. I am not fresh on this. I may have to ask Mr. Fiddler. Could I give my own comment on that, sir? It seems to me to matter what the person is to teach, what sort of person he is. I could well imagine a Russian physicist who could tell us an awful lot of useful things about Russian physics. They have some very good physicists over there it seems. If he were interested in physics, though a believer in Communism, if you had no reason to anticipate that he would misuse his office -- anticipate that he would misuse his office -- and make it into an agency propaganda, personally, I am pretty clear that there ought to be no flat prohibition which would exclude the possibility of such a person being a teaching member of the faculty. How correct is that?

Fiddler: I think that is correct, Professor Dawson.

Dawson: Let me say that following what we sometimes know as the McCarthy period of inquiry into alleged Communists and after numerous attacks upon college professors, and after a number had used the Fifth Amendment to avoid self-incrimination, we had an investigation of a great many cases and we published a report which we know was the 1956 Special Report, and in that Special Report there is a statement which I cannot quote verbatim. I have the report before me which I might be able to find a little later, but let me summarize it.

That membership in the Communist Party in and of itself should

not be a basis for dismissal, but might be a basis for inquiry into the person's treatment of truth and pursuit of truth, and his fitness to teach, that the central issue is whether the individual regardless of his political affiliation, is fit to teach. Now let me read you one passage which I think will be of interest to this Commission that is a part of that 1956 document which is a policy statement of our association. This is to be found on page 56 of the document and it is numbered 3. "Vigilance Against Subversion of the Educational Process", is the title of the section. "The academic community has a duty to defend society and itself from subversion of the educational process by dishonest tactics including political conspiracy to deceive students and lead them unwittingly into acceptance of dogmas and false causes. Any member of the academic profession who has given reasonable evidence that he uses such tactics should be proceeded against forthwith and should be expelled from his position if his guilt is established by rational procedures. Instances of the use of such tactics in the past by secret Communist groups in a few institutions seem to have occurred and vigilance against the danger of their occurrence in the future is clearly required."

Zollicoffer: Are you familiar with the fact that, or it's reported, that you censored the University of Washington for dismissing two of its faculty members allegedly because they were solely Communists, that was the sole ground? Do you know anything about that? In other words, what I am concerned about --I'm afraid of a Communist regardless of where he is and I would be even more afraid of him if he were teaching. And yet I understand that you all would permit him to teach, and if he

went wrong, then you'd fire him. Now who is going to judge when he goes wrong? Can we take that risk? When he has taken an oath, as I understand it ...

Dawson: Our Association has what we call academic due process procedures to look into charges related to unfitness to teach and we could spell those out in detail if you wish. One of the first steps, of course, is to have a committee of that teacher's peers chosen on the basis of their objectivity to hear the evidence and decide as to whether there is unfitness to teach as a result of alleged charges of subversion or otherwise as there might come out. Of course, the Board of Trustees has the ultimate decision in nearly all cases and we feel that if there is a difference between the faculty group and its judgment and the Board of Trustees that those two groups then have a duty to get together and discuss their differences and see if there is any possibility of reconciliation between them. At times the faculty groups have been on one side of the issue and the Trustees on the other. In some cases we have, our Association has, not moved to expose the cases for a variety of reasons; in some we have published reports to expose the cases.

Now you bring up the case of the University of Washington, and, sir, I'll have to confess that these details came up before I joined the Washington Office and I haven't seen this report in nine years. There are people present here though who are quite familiar with cases that occurred on their own campuses -- at the University of Michigan and Ohio State and perhaps, and they related...

Zollicoffer: I was just interested in how it transpired and some of the

facts.

Dawson: You might quiz them because they have a close familiarity with the incidents that occurred some nine years ago.

Zollicoffer: That's all.

Chairman Britt: Dr. Dawson, I'd like to ask you just a few questions here. I gather from your statement that your position here this morning and the position of your group was addressed, primarily and hopefully, solely at the quest of academic freedom; that as far as the infringement of legislative interference or political interference of the operation, why your emphasis is not on that phase of this inquiry. Is that right, sir?

Dawson: Yes, sir. We regret it but do not consider that this is the feature on which we are, if I may say so, particularly qualified to speak.

Chairman Britt: Well, Dr. Dawson, probably I should have better sense, being just a R. F. D. lawyer, in trying to match wits with a Harvard professor, but the fact remains that I would like to ask a few questions on this quest of academic freedom. Now, as I understand, the general theory of academic freedom -- that is to, it is more or less to assume that nothing is fact, nothing is accepted as fact and permits the persons studying or the person teaching to assume that nothing is fact and move on from there and try to discover what is fact. Is that sort of a safe basis to start on?

Dawson: Well, sir, I wouldn't put it that way. I believe we all consider that there would be not much purpose in our efforts if we could not find factual basis existing or discoverable by our efforts and through discussion and inquiry. I would only prefer to say that what is recommended is an open mind, an open and critical mind, toward all the evidence that is relevant to your problem.

Chairman Britt: All right, sir. With that in mind, let's take a very simple proposition and just for moderate exchanging of ideas or a discussion on this point -- we have heard it said for centuries, I suppose, that crime does not pay. Do you think we could accept that as a fact or not?

Dawson: Well, that is an axiom that I never found in any law books, and I don't think it's true. I think crime is very profitable sometimes.

Chairman Britt: You think it is? All right, sir, I think we're getting somewhere in this discussion then. That we've been taught to accept that as a fact and it is presented as a fact in so many circles, particularly here in North Carolina, why still do you think it is a matter to be inquired into and so on.

Well, that being true, we disagree on that to begin with but just assuming that that is true for the moment and for the first purpose of this discussion. Do you think it would be proper for one of our colleges or universities even the enlightened university which you represent to invite a professional bank robber, one who has staged a Brink's robbery and got away with a three million dollar haul or something of that sort, to assume that he could be assured of immunity and prosecution? Do you think it would be proper to have him come in and talk with students of the university about the bank robbery profession?

Dawson: To teach them and train them in committing crimes?

Chairman Britt: Just to teach them about the profession; just talk to them about the profession.

Dawson: Well, you put a very difficult question, Mr. Chairman. I should think it might be really quite interesting for students and faculty to hear an account of his lifetime career and methods from a successful bank robber. What you are getting at, I take it, is that the object in his mind would presumably be to train some apprentices.

Chairman Britt: That's right.

Dawson: To help him in his career in crime. Well, this is a difficult question, but I don't -- I think the university could very well say if there's no reason to think that this is education in anything but crime and criminal methods, criminal techniques, he has no business here. But the fact that he is a convicted bank robber now out on parole, let's say, would not to my mind be a sufficient reason in barring him from speaking to students in school if he does not speak in such a manner as to promote the condition of crime. This is, I think, a vital point on Speaker Ban.

Chairman Britt: Well, I'll probably get shot somewhere or censored for making this inquiry, but I really feel it's pertinent since we've gone that far. I've noticed in the press lately or in various publications about recruiters going around even using pressure methods in certain instances to recruit girls for the oldest known profession. Do you think that would be proper for someone to speak on a campus about the merits, demerits or attractions that history of the oldest profession that's known in this country or any other country?

Dawson: That's very easy -- It's very hard for me to see any lawful educational purpose that could be served by such a visit. No, sir. It seems to me that there are certainly regulations against obscenity and vulgarity and training in criminal activities which a university and college can and must have available.

Chairman Britt: All right, sir. I understand then that you think that inquiry or that presentation would be improper because of obscenity, because of immorality, and because of illegality. Is that the reason you think that inquiry or that presentation would be improper there?

Dawson: Well, because the substance of the visitation, of the visit, is so far as one can tell in advance the promotion, sure and simple, of an illegal activity, if you knew in advance that -- let's say Gus Hall was mentioned, that he had planned to come to a student audience to stir them to a riot the next day, I think a university would, if it knew this in advance, would be justified in saying our facilities can not be used for this purpose since after the event it would be clear that a crime had been committed.

Chairman Britt: Professor, I believe you've gotten about one step ahead of me there. But, if we get back now to the basic

reasoning for why you would not think that this other presentation was possible or was proper, and do we agree that it would not be proper because it was immoral and because it was illegal? Can we agree that far on that proposition?

Dawson: Well, because the purpose of the speech, of the expression of ideas, is nothing more than promotion of a course of criminal activity.

Chairman Britt: All right, sir, now let's start from there. I wonder sometimes if there's a disagreement between a lot of us about the Communists, and I have noticed in your printed statement and in your remarks today that you say that the line should be drawn between one who is merely -- says -- I am a Communist, or even a member of the Communist Party, and one who on the other hand tries to organize some activity of violence to overthrow the government. Am I correct in that assumption?

Dawson: Yes, sir.

Chairman Britt: That you do draw such a line?

Dawson: I draw the line essentially where our courts have drawn it.

Chairman Britt: All right, sir. Let's go one step further. But isn't the objective of any person who is a Communist or who is

a member of the Communist Party to move on then to that second step ultimately. Isn't that his ultimate objective?

Dawson: I am sure there are many Communists who have not before their minds consciously every day the promotion of revolution; who have many, many other things to think and talk about, especially those who are trained in some academic discipline. I can imagine biologists, chemists, physicists who would come most peaceably to talk about the things they knew about and would think of the contest between the great opposing ideologies of the world as something for the far distant future and no concern of theirs.

Chairman Britt: All right, sir. Now let's go one step further on that. But as you talk about the Russian scientist, or the Russian astronomist as being interchanged and, of course, if they can stick to the subject, that's one thing, but isn't one of the requirements of the Communist Party ~~so far as~~ you have read or learned and certainly my reading and information on that has been limited, but isn't one of the requirements of it that they -- that the member -- help advocate the cause of Communism by soliciting others or encouraging others to follow suit in that ideology?

Dawson: Well, sir, I am at the disadvantage of not having really met a Communist. It's a strange thing to say for an elderly person like me, but I'm not aware that I ever talked to a person who was at the time a Communist. But I can imagine that there would be a great many, especially those who could be brought to an academic environment, who would think it highly improper and know that they would be cut off as soon as they began to speak on subjects not germane to the purpose of their visit and invitation, and I would be quite sure that there -- many -- Communists would say this is a long-term contest to be settled in the course of fifty years. The enmity is deep, but their purposes are totally different. The objectives of society for each group will be so fundamentally in conflict but not be looking toward immediate organization of subversive activity in this country.

Chairman Britt: All right, sir. Will you not agree then that probably the first step to becoming a revolutionary Communist is to become a simple Communist, we would say?

Dawson: Well, I suppose it must be a necessary step to join the Party. Yes, sir.

Chairman Britt: Then, sir, if we recognize that as probably true and is reasonably true, why isn't the place to stop this

thing from happening before you take the first step, before you encourage the first step?

Dawson: Well, Mr. Chairman, by not allowing them to speak out loud, you don't change their views or the efforts that you assume they are constantly making all day and into the evening to persuade and corrupt and subvert. The choice essentially is whether they shall be permitted to go on underground until they can be caught in some violation, through the advocacy of violence which they would be probably very careful to avoid or whether they should have their ideas brought out into the open for discussion.

Chairman Britt: Now, you mentioned the fact that a Communist from Russia was on the faculty at the law school at Harvard and taught for about two months.

Dawson: For about two months, yes, sir.

Chairman Britt: Now let me ask you this: was any other member of the faculty or administration or representative of the university present at all the lectures made by this professor there?

Dawson: Yes, sir, because in particular he didn't speak English. So that a member of the Harvard law faculty who

did speak both Russian and English was always present along with three or four other junior members of the faculty.

Chairman Britt: Now what you're saying is that he was well chaperoned while he was on the campus at the university.

Dawson: If I may add, sir, it was a very profitable visit which taught things that could not have been discovered about Russian law in any other way.

Chairman Britt: Well, let me ask you this. It has been said by any number of our people here in North Carolina that the very fact that an invitation is extended to a person to appear on a campus for a group, the entire student body, or some group on the campus, just that invitation within itself carries a certain amount of dignity with it, a certain amount of encouragement, so to speak, with it. Would you care to speak to that?

Dawson: Yes, sir, I would like to speak to that because it seems to me this is one of the fundamental misconceptions that causes the tangle and the difficulties that we get into in this issue. Is it not possible for an institution which is committed to the purposes that we have tried to define and on which I think in general we surely agree, is it not possible to say by inviting Rockwell, or Malcolm X in his lifetime, or Gus Hall, we sponsor

his views in no way. How can the institution be blamed if it is carrying out the broad educational purpose to which it is committed? There is no respectability conferred by being invited to a university campus. I say this not in disrespect to the universities. I am glad to get invited when I am. But this is a strictly neutral matter, and it's an essential cause of the confusion we are in it seems to me.

Chairman Britt: Well, Dr. Dawson, don't you think that would be a sort of debatable question? That is to say that you as an educator would look upon it as a neutral matter, but the impressionable students of the student body would be naturally inclined otherwise. Don't you think there could be a possibility of that?

Dawson: Well, it seems to me it's very easy to enter the necessary disclaimer, sir.

Chairman Britt: On page four of your statement, I noticed you made this statement talking about students being admitted to hear various sundry points of views and then you say this: "They surely can be trusted to learn the great stakes in our worldwide contest." Now this is a sentence I want to ask you about: "They can see through the false arguments of our opponents as well as their elders do." Do you really believe that a seventeen or an eighteen

year old boy or girl can see through false arguments as quickly as you or some other, some member, of this commission would?

Dawson: Not immediately, not on that day or night or evening when the ideas are first proposed, no. It takes a little time. What I am trying to suggest is that in the learning process as you run into these ideas, learn to appraise them and to reject them, which may take some time and some help from elders. You are going through an essential learning process which we have all gone through in some degree, which they are going through. So that I did not mean to suggest that immediately and at the moment they have the critical faculty which will enable them to say, well, that's the flaw in that argument.

Fiddler: Chairman Britt, may I make a comment at this point on this issue you have raised? I've been asked by the University of Kentucky as a part of its program for its centennial next year to give an objective survey of academic freedom in the South, and one of the smaller sections of my study deals with speakers and the problem before us here. I've written to over a hundred experienced professors at all types of institutions in the South -- state-supported, those initially organized for the education of Negroes, church-related, and so on, and private, both universities and so on. This incident was brought to my attention at an

institution that isn't too many hundred miles from here. A speaker was invited in who was known by those who invited him to be of Marxist leanings. He was alleged to be a Trotsky-ite, although I do not know that was -- that could be proved. When the president heard about this invitation, the president said it had to be rejected and did not permit the speaker to appear. Members of a church in the neighborhood wished to hear him and invited him, and the professor who reported this expressed the opinion that he believed several times the number of students turned out at the church to hear him as would have heard him on the campus. And this professor was very much pleased and surprised to hear that when this Marxist advocated Castro-like revolutions in Central America and South America, student after student stood up with cogent arguments, with a clear understanding of our foreign policy, of what was involved in such a proposal as that. And the professor concerned was very proud of their mature ability to exchange views with this man who was advocating that something our government has opposed.

Chairman Britt: All right. That leads me to one more question and then I'll share the time with the other members of the commission. Assuming that what you've just said, Dr. Dawson and also Dr. Fiddler, have not our churches then -- protestant

faith, Jewish faith, and others -- haven't they missed the boat in teaching processes through the years and at the present time by not inviting in from time to time atheists and others who disagree with them violently as to their teachings and doctrines and so forth. Would you say they have missed the boat by not following the same procedure there that Harvard University has on its programs?

Dawson: No sir, I find the analogy remote. A church congregation is surely a group gathered to express their devotion, their belief in the Diety in a manner on which they do agree. They are brought together by their common belief. And to expect that a religious group should be expected to undertake a general educational enterprise, it seems to me is to misconceive its origin and purpose.

Chairman Britt: Thank you very much, Dr. Dawson and Dr. Fiddler, for this and I will now recognize Colonel Joyner for any questions he might have.

Col. Joyner: Mr. Chairman, I took such large bite of the first time yesterday I'd like to wait until after the other members of the commission have had their opportunity to inquire. May I pass for the time being? I'll pass.

Chairman Britt: Mr. Thornburg, do you also pass? Ben Fisher is recognized.

Fisher: I'll pass for the time being.

Chairman Britt: Charlie Myers is recognized.

Myers: No questions.

Chairman Britt: Colonel Joyner, it looks like its up to you, sir.

Colonel Joyner: Yes, well, I don't have many questions. First, on the subject that was just last brought out. Dr. Dawson, I understood you to say that you had no ready knowledge of Communism.

Dawson: Colonel, I've read about it it seems to me for most of my adult life since it first emerged as a phenomenon in Russia, but I have not studied Marx.

Colonel Joyner: You do not consider yourself an expert or knowledgeable in the Communist subversive activities?

Dawson: No.

Colonel Joyner: Whom do you regard as the greatest expert in this country on that subject?

Dawson: Well, I think I understand.

Colonel Joyner: Other than a Communist.

Dawson: Yes, for detective work in national security J. Edgar Hoover is, of course, the leader.

Colonel Joyner: And his basic knowledge of their aims and their methods is quite proficient?

Dawson: Well, sir, I have the highest admiration for his achievement, for his contribution to the peace and security of our country. I do not consider that Mr. J. Edgar Hoover has ever had occasion in his lifetime to study Communism, theoretical or practical, or that he is an educational expert. I understand that he has declared that this speakers ban is desirable.

Colonel Joyner: You have anticipated my next question.

Dawson: Yes sir. But I also know that Mr. J. Edgar Hoover on other occasions has come out with some very, very ringing affirmations about the essential importance of freedom of inquiry -- what we call academic freedom -- in America.

Colonel Joyner: But -- and just to reiterate what you have said, do you know that he has said publicly in some public speeches

that have been widely distributed that in his opinion Communists should not be permitted to speak at universities on any subject?

Dawson: Well, I have not seen those statements as you described them, Colonel. I suppose it really ends up by my saying I don't agree with J. Edgar Hoover.

Colonel Joyner: If he has made those statements, your position is entirely different from his position. And that I'm sure represents an honest difference of opinion.

Dawson: Yes, sir.

Colonel Joyner: And that difference of opinion is shared by many people on either side.

Dawson: Yes, sir.

Colonel Joyner: And how -- well, that will be just getting into an argument -- I won't get into that. I have just one or two other questions. I think this you may wish to refer to one of your associates. With reference to page one of your statement, I was interested in your statement that your voluntary organization of university professors embraces nearly 75,000 faculty members found throughout the fifty states. I wonder what percentage of the eligible faculty members that represents, if you can tell me.

Fiddler: Well, sir, our interest in recruiting members and organizing chapters has been primarily at the standard type of two-year or four-year institution or university with a campus with a fulltime, continuous faculty, with a library, all that we know as a traditional university. Now the only list that we have of all of the colleges and universities is the office of education list which incorporates a great many institutions which our association does not consider as a part of higher education. They are in certain specialized fields that we would not recognize as colleges and universities. I do not know exactly how many colleges and universities of the standard traditional sort there are. I would guess there are about 1,450. I would guess there are about 175,000 faculty members at those institutions, and we have about 75,000 of that potential. These are estimates.

Colonel Joyner: Then you later state that here in North Carolina we have 27 chapters representing all your major institutions of higher learning and many of the smaller ones.

Fiddler: Our total North Carolina membership runs in excess of 1,800.

Colonel Joyner: What percentage do you estimate that that is of those in North Carolina who would be eligible for membership if they applied?

Fiddler: I don't know the total membership of the type of institution -- faculty membership of the type of institution that I have just described. I believe that the percentage would be about the same as the national percentage.

Colonel Joyner: I -- My inquiry was prompted by reading a copy of a speech made by a Congressman reported in the Congressional Record. I have it but I'm in the same situation you are -- particularly sometimes -- to find the paper in which he estimated that about two-fifths of the eligible professors were members. That doesn't miss your's very far.

Fiddler: That's correct, sir.

Colonel Joyner: Now just one other line. In connection with your action after you first learned of the pendency or the introduction of this bill, inquiries have been made about that telegram that you sent. I would not like to make inquiry about any bulletin that you sent out either to your general membership or to your North Carolina chapters, or to anyone in North Carolina following that telegram.

Fiddler: We have a file of correspondence related to the North Carolina speaker bill that must be five or six inches high. This

file has a great many letters to our chapter officers, to our conference officers regarding the bill, regarding local interests, regarding our opinions of the bill. I suspect that we cooperated with the North Carolina chapter in a conference with the North Carolina conference, in a conference letter, although I do not have that file before me. It is our characteristic method of operation to exchange views and to assist conferences in the dissemination of information that relates to association policy.

Colonel Joyner: Well, sir, yesterday we had a statement made by an introducer of the bill, the Honorable Philip Godwin, and he made the statement that he was completely amazed at the opposition that immediately was voiced and with such loudness.

My observation -- well, let me say that that was my own personal experience -- I was completely amazed at the amount of antagonism that was voiced and the bitterness with which it was expressed and the attacks that were really made on the Legislature. Now I think that it is one of the functions, and would be, is of real importance for us to ascertain as nearly as we can the origin and the reasons for that outburst or explosion of, shall I say, opposition and bitterness. For that reason, I'll ask you first -- and I won't press this on you -- but I ask you if you would be willing for someone on this commission or representing this commission to go through your file on the North Carolina matter?

Fiddler: We have not opened the files of some of our special cases that relate to special problems to examination. This was a different kind of request, and I don't believe there is any information in this file that has come to us that might do injury to an individual because of the frankness of his expression and to release it to other parties. I would say that one of the functions of our office is to protect the confidentiality of the information that comes to us because we must deal in confidence with those who write us. Sir, I would have to examine the file and perhaps have some of my colleagues look at it to see if opening that file to, shall we say, outside inquiry outside of our office, outside of our Association, would be likely to unearth boldly, frank statements which if known or used might be a source of embarrassment or injury to other people.

Joyner: And, of course, if it comes to this Commission, it must be open to the public.

Fiddler: Yes.

Joyner: I can understand your answer which as I understand it is for the time being, no.

Fiddler: Until I examine the files closer.

Joyner: I'll ask you the further question though, and this I will press. Will you furnish to us copies of any and all bulletins or form letters which you sent to any of your organizations? And by form letter I mean that a letter going out to more than one of your chapters?

Fiddler: I believe that can be done.

Joyner: Mr. Chairman, will you join me in that request?

Fiddler: I will see what the file contains, and let me say, sir, that in dealing with general principles and laws and statutes, we are most circumspect in the language that we use regarding these laws and views. Now you used some terms of bitterness and heated opposition or something to that effect -- that does not characterize the language that comes out of our Washington office.

Joyner: I am sure of that. But what I'm interested in is ascertaining whether this, what I would say, a spontaneous explosion in North Carolina; or whether the -- let me change that -- whether the explosion in North Carolina was spontaneous in North Carolina or whether it was stirred up from Washington.

Fiddler: My colleague has just passed me a note that there was no dissemination to chapters as a group and to conferences as a group regarding this matter. Now, here is a portion of the file. I do not think it is all of it. I'll take his word for it that what you have just requested does not exist, but I do not know for a fact that it doesn't. I have been absent from the office for a number of, for three months, and others have been in charge of the office so I cannot speak from personal knowledge. I'll have to inquire.

Joyner: Well, I'm willing to leave it at that. I think that is all I have.

Britt: Before we take a short break, I would like to ask you one question that has come to me from the audience and it was forwarded by a member of the audience from some person down in Fayetteville. This note says this. "About a month ago, in the New Republic, it was reported that the Association blacklisted certain colleges and universities because of

certain practices, and the writer indicates that he believes they were Wayne Tech, Arizone University and a Texas College." Now the question is this. Would the Speaker Ban Law bring on such a blacklist by your Association?

Fiddler: Let me correct the language of the New Republic, sir. We do not blacklist colleges or universities. We conduct thorough-going investigations and try to examine the evidence and reach certain conclusions relative to the policies that we've set forth in the area of academic freedom and tenure. Many of the cases which we deal with are settled on the basis of due process rather than academic freedom which we think is very, very significant. When we find that either the Board, in some cases, or that Central Administration including the Board, in some cases, has been guilty of violations of the principles and due process procedures that we uphold, we vote censure against that Board or against that Administration. We are not censuring the faculty, we are not censuring the students, we are not censuring the alumni. In fact, we are very hopeful that conditions will improve soon. Now, would you restate the second half - the second part - of your question?

Britt: Well, the entire question is: Would the Speaker Ban Law bring on such a blacklist by your Association?

Fiddler: We would need a complainant who has been injured as the result of the operation of the Speaker Ban Law, and that complainant in most cases would be a faculty member, before we/conduct an inquiry, or an investigation, that might lead to censure of Administration. If there should be such a complainant, we would examine the facts in the case on

their merits with regard to all the evidence that we could find and make our decision, but just on the existence of the Speaker Ban Law without a faculty member, and I might say an administrator too. We have taken up the cause of administrators. The University of Texas case involved the present President Rainey, and we were deeply involved in that. And had much to say about the President's position and his academic freedom. But the great majority of our cases deal with injured faculty members, and we would need such a case before us.

Britt: The primary purpose of your organization, is it not, is for the benefit of the members of your organization?

Fiddler: Of the whole academic profession. I might say that a large percentage of the complaints that reach us come from people who are not members of our Association, and we have pursued their complaints and have investigated even though they have not paid a dime of dues to our Association. We are concerned with the standards of the whole academic profession.

Britt: Thank you very much, sir, and at this time the Commission will take a break and will convene promptly at ten minutes until twelve o'clock to resume our hearing. And we would appreciate the panel members being back in the same positions at that time.

Britt: I'm going to ask the Commission members please to return to your seats as many as possible. We're just going to have to resume our program. I'll ask please if Mr. Fiddler - Dr. Fiddler - and Dr. Dawson will resume their seats and if the others will wait just a moment while the other members

of the Commission are getting in. I think probably, we have one or two questions to ask Dr. Fiddler or Dr. Dawson by members who are here, and we can proceed to get that done before getting into hearing from our other speaker on the legal aspects of this bill. So if you two will take your seats, please, we'll proceed accordingly. I believe at this time that Mr. Thornburg has a question that he would like to ask one of our visitors.

Thornburg: Dr. Dawson, during the recess, I was handed two questions here which I would like to put before - I actually probably direct the question to - Dr. Fiddler and the question was this: Do you have any record where any professor or teacher in your organization was given a loyalty oath or asked to take a loyalty oath?

Dawson: Do we have a record of such requirement?

Thornburg: Yes, or personal knowledge that this occurred.

Dawson: Well, I've taken I think in my lifetime twenty loyalty oaths and certainly one in Michigan and one at Harvard. I think they are renewed every two years at Harvard or something. I mean it depends on what kind of loyalty oath you are speaking of.

Thornburg: I take it the questioner was referring to the support of the Constitution of the United States and support of the state in which the institution was located. Do you have any ...

Dawson: May I say that I feel very cheerful about that. I'm very glad to make such an affirmation.

Thornburg: And if such was given, do you have any record of your members having pled the Fifth Amendment in that regard?

Dawson: I have none, do you Bill?

Fiddler: Most of the Fifth Amendment cases that have come to our attention have been broad and general in their taking of the Fifth and have declined to answer all questions because as you know in the inquiries if a matter is open at the beginning, then the person is under threat of action against him if he does not proceed to answer others, so most of the Fifth Amendment cases have been in the area of subversion or alleged subversion have been blanket Fifth Amendment cases against all questions. Now, I don't know of any case where the loyalty oath matter has been separated from other questions and singled out as the one issue on which the person would not speak.

Thornburg: The members of your organization have taken the Fifth Amendment, so to speak, in inquiry that has been posed to them?

Fiddler: I think that is a correct statement.

Thornburg: In such event, has your organization taken any action punitive or otherwise against those persons?

Fiddler: No, we have not.

Thornburg: Now, Dr. Fiddler, perhaps you would be the one to answer this. What, in your opinion, would be the effect of disaccreditation of the institutions of higher learning in the State of North Carolina? Would you care to comment on that?

Fiddler: The people who would suffer in largest numbers, of course, would be the students, and among the students would probably be the undergraduates who would like to transfer their credits to accredited schools. Many accredited schools would probably, I can't say for certain because I don't know all of their standards, would probably not accept transfer of credits

from disaccredited schools. That would be the largest group of students. Now, the next largest group of students would be those who would like to enter graduate schools and professional schools, many of which would not accept students from unaccredited institutions. The other group that would suffer would be the faculty members who would not care to teach at an unaccredited school for a variety of reasons, and I have information which I was going to mention and I hope you will question President Friday and other administrators when they come up who are related to this, that some 175 teachers at Chapel Hill had signed a statement and sent to the administration that if that - that's Chapel Hill - the University of North Carolina or other institutions perhaps, but that one in particular, is disaccredited they would leave. I have - it has been reported to me - and I have not seen this letter or the other letter, but as I say, you can illicit this information from the administrators that 114 faculty members at the University of North Carolina at Greensboro had sent, I believe in this case, not the President but another administrator, I have the note here somewhere, a letter to the same effect that they would leave at the first opportunity. Now as Dr. Dawson has pointed out with regard to faculty migration so eloquently in his earlier discussion, faculty decisions, faculty deterioration, these things do not take place instantly, quickly -- people have deep roots, and academic people for the most part are not migratory, as he put it, so I would not want to lay too much stress upon the fact that there would be a certain exodus of any type of person, excellent or otherwise. It would be a slow process of looking for a proper spot, but

I do think that if your institutions were disaccredited, many of your faculty would try to find other posts.

Thornburg: Does your organization have any memberships in institutions that are not, in fact, accredited by regional associations?

Fiddler: We do not accept members who apply initially while they are at an unaccredited school. If they have been at an accredited school and move to an unaccredited school, we permit them to retain their membership, and we are very happy to do so because we hope that they will use their influence to try to remove the conditions that prevent accreditation and will work. They remain as members, but one who applies, and has not been a member before, from an unaccredited school is not accepted into membership.

Thornburg: I take it the same rule would apply if, in fact, you had an accredited school that became an unaccredited school? Is that correct? Their membership would continue in your organization?

Fiddler: Those who are members - yes.

Thornburg: Yes, if this, in fact, became the case, loss of accreditation, would you make this known to your membership over the country that, in fact, the institutions of higher learning in the State of North Carolina were not accredited institutions?

Fiddler: I believe that we would encourage someone to write an article for our quarterly journal. We would probably publish letters dealing with the subject. As for our taking an official action, it might be in the form of a resolution -- hopeful that conditions would be removed and accreditation would be restored. And that resolution would be published. But as for

a blanket announcement throughout the nation -- if you are implying that we are trying to create a boycott - we have never done that.

Thornburg: You don't anticipate that you would do it in this case?

Fiddler: We have never done that. We have never attempted to create a boycott; even of institutions that we censure, we do not make an effort to create a blanket boycott.

Thornburg: And I take it from previous remarks that you would make no effort to blacklist these institutions insofar as your membership is concerned?

Fiddler: Individuals at the institutions? I did not understand your question.

Thornburg: No, the institutions themselves.

Fiddler: Well, as someone put the question to me earlier, if we have a case in which a faculty member has been injured as a result of his connection with this law and injury is suffered, we would look into that case. And it might result in censure. I can't say. I would have to see the facts, the investigation and all that would take place.

Thornburg: You are familiar with the fact that many universities over the country do have written policies governing visiting speakers. Now I have one here before me that was made available to us. It comes out of a comparative investigation of policies of 98 colleges and universities regarding campus speakers and lecturers by Frank Campbell, Assistant Professor of Social Studies, Clarion State College, Clarion, Pennsylvania. One of the policies which he sets forth contains this language.. The speaker must not urge the audience to take action which is prohibited by

the rulers of the university or college or which is illegal under Federal or Michigan law. Secondly, advocating or urging the modification of the government of the United States, or the State of Michigan, by violence or sabotage is specifically prohibited. Now in your opinion, is this undue interference with the academic freedom of which we speak?

Fiddler: If I understood the meaning of the first clause you meant that a professor is not to take issue with the rulers of the institutions. Is that the way that clause goes?

Thornburg: It says, "must not urge the audience to take action which is prohibited by the rulers of the university or college or which is illegal under the Federal or Michigan law."

Fiddler: I think in the second of two cases, we would agree that you should not encourage on campuses illegal action contrary to state laws, etc. Now, the first part of this question is an extremely difficult one. To urge persons to take action with regard to the pronouncements and regulations of the rulers of the institution -- in broad terms, I would say that is too much sweeping. One of the duties of a faculty is to examine and debate and perhaps propose change in regulations -- that so-called rulers of institutions promulgate. I think the essence of free inquiry and the essence of improvement of institutions comes about through faculties attempting to improve their institutions as they think they can be improved. So that part of the statement, I question very seriously.

Thornburg: Well, has your organization taken any official action with regard to the University of Michigan?

Fiddler: The University of Michigan was once placed on the censure list.

Thornburg: This set of rules apparently was formulated or at least in existence in the year 1963. Was that before or since that date? Dr. Dawson I understood you to say that they didn't have any restrictions -- and yet this is furnished by - from - Mr. Campbell.

Dawson: From the University of Michigan?

Thornburg: That's what it says.

Dawson: Well, you do astonish me. Now, do you know anything about this, Bill?

Van Alstyne: This is the first information I have heard of this particular regulation. It is true that in 1963 there was a visiting speaker controversy at the University of Michigan. It had to do with the appearance of Carl Braden, as I recall, and there was tentatively an effort to reject him as a visiting speaker because he had been convicted of contempt before a congressional committee. The outcome, however, was to permit his appearance and legislative efforts to forbid the university from permitting such appearances in the future were unsuccessful. To the best of my knowledge, the regulation currently in effect, which was revised in late 1963, was drafted in part by members of the law faculty at Michigan and though I can't reproduce the wording verbatim my recollection is that it's strikingly different from that which you recorded.

Thornburg: Well, this is a two-page statement of policy apparently from the University of Michigan and my question was what attitude your organization has with reference to this.

Fiddler: Well, we don't like that first clause at all, and we would quarrel with it. From my recollection with the second two clauses, I am inclined to agree that we would agree with the second two clauses. I think both of them relate to incitement of unlawful activity that is in violation of state laws and federal laws or incitement of the overthrow of the government. Isn't that the substance of the last two regulations and we, of course, would agree that faculty people and others should not incite persons to unlawful action.

Thornburg: That this was a valid restriction on the pursuit of academic inquiry?

Fiddler: Well, it's a part of our American law. It's to be found in many statutes.

Dawson: May I, Mr. Chairman -- might I look a little further into this, which is entirely new to me? Apparently, the draftsman is a very close friend of mine in the law school at the University of Michigan, but the coordinating council for public education in Michigan has adopted this as a declaration of policy. This is not legislation or rule making. They have no rule-making power and the language is recognized, recognized student organizations are encouraged to invite speakers to the campus, subject only to the following provision. The report of the committee listed eight principles on which the recommended policy was based. No system of prior restraint should be imposed whether by administrative officers or faculty screening committee, etc. In other words, what startles me is the language that the rulers of the university can issue any rule which can then, cannot be attacked in a faculty or student meeting. This

cannot be the sense of such a document. But in any case, it is a recommendation to student groups that are inviting speakers.

Thornburg: But in effect you do admit that it is a restriction on the speakers who might speak there and on the topics on which they might speak?

Dawson: Well, as to their not advocating overthrow of the government by violence or other illegal means, this is not only the statute law of most, I suppose all of our states, we, as I have suggested, could not possibly have any quarrel. We would not disagree with it.

Thornburg: One other question. I was interested in the statement on page, or part of your statement on page 3 in which you define what you consider to be or you define what you consider academic freedom consists of. Now, I would like to know if you have a definition of academic responsibility?

Dawson: Yes, sir, we do. It is now the very actively discussed by the somewhat elephantine processes of reaching concensus in the Association. It takes a while to get these statements of policy discussed by the chapters and through the standing committees into the final action of the Association's annual meeting. We've been working on the formulation of these tests for really years. When you once get down to drafting it, it's really kind of a hard drafting problem, but we are very actively engaged in this and consider it a very important aspect of our activities. Yes.

Fiddler: May I make a point here? One of the most significant documents the Association has ever issued is its 1940 statement on academic freedom and tenure. And one clause in the statement on freedom is a definite

admonition with regard to responsibility, and I'll have to paraphrase it because I haven't memorized it, but it runs.... Here is the quotation.

"The college or university teacher is a citizen, a member of a learned profession, and an officer of an educational institution. When he speaks, or writes as a citizen, he should be free from institutional censorship or discipline, but his special position in the community imposes special obligations. A man of learning and an educational officer, as a man of learning or an education officer, he should remember that the public may judge his profession and his institution by his utterances. Hence, he should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that he is not an institutional spokesman." Now that is a very clear charge with regard to responsibility in the area of academic freedom of our faculty members.

Thornburg: Thank you.

Britt: I suppose that members of the Commission certainly ought to have at least one or two other questions they might want to ask along this line, and I'm going to ask you to please reserve those questions because I feel that we ought to move on now into this matter of the legality of the North Carolina Speaker Ban Law. That point has been raised quite a bit by any number of people and Professor Van Alstyne of the Duke Law School has a memorandum on this that he would like to get before the committee. He has presented a written memorandum, but I think at the same time it'd be well to have his statement on it and then some discussion of it. Professor Dawson, I assume that that is the way you would like to proceed on this and I now recognize

Professor Van Alstyne of the Duke University Law School.

Van Alstyne: Thank you, Mr. Chairman, I have, as you indicated, submitted a 26-page memorandum on the question. I think it would impose on you unnecessarily in view of the shortness of time for me to recite the memorandum, and I'm sure I can rely upon your familiarity with it to bring questions out at the close of an altogether abbreviated summary. I propose then merely to read some of the introductory remarks and then to summarize briefly what I regard as the critical constitutional defects of the North Carolina Speaker Ban Law. I should begin by observing by way of general background that as the Commission knows, the ban was enacted in the closing days of the 1963 legislative session with substantially little notice and debate. According to its sponsors, it was modeled on a bill proposed in the Ohio General Assembly during the same year. The Ohio bill was extensively debated in both houses of the Ohio General Assembly, however, and was finally adopted after drastic modification. In legal substance, it merely reaffirmed the general authority of the state university trustees to regulate the appearance of guest speakers.

Now I should depart from my text here to take the opportunity to respond to Mrs. Swindell's observations about the Ohio statute. If you'll pay careful attention to the language of the statute, you will note two major differences from that adopted here. Number 1, the statute does not, on its face, ban any speaker from any state-supported campus. Number 2, it does not require the trustees to ban any speaker. It reiterates the authority they possess under pre-existing Ohio statutes, to regulate the appearance of guest speakers and it goes on in what is in legal substance a gratuitous expression

that this power includes the authority to exclude certain groups. It does not require them to do so. Now the other.. I suggest here it's a critical point because obviously then the significance of a given ban depends upon the circumstances in which the particular ban is imposed at the discretion of a given board of trustees or a given university president. At Ohio State there have been several speakers banned under a trustees' rule. Incidentally, the trustees' rule was not adopted pursuant to this statute; it is a rule which antedates this statute based on a general grant of governmental authority which has been with the university for a number of decades.

The other state universities have pursued an independent policy. Some speakers unacceptable at Ohio State have been found acceptable at Ohio University by President Alden; thus, there are these local differences depending upon the response of the particular trustees. But my point is merely to observe the particular fate of the identical bill on which the Speaker Ban Law was modeled. In substance, it banned no one, it did not require that the trustees ban anyone. Now some of the causes contributing to the defeat of the original Ohio bill are necessarily uncertain, but it may be useful to observe that a number of the Ohio Senate committee members at the time expressed grave doubts of the original bill's constitutionality, and that the bill was opposed by several influential persons of generally conservative political disposition. Thus, it was that Congressman Robert Taft, Jr., who was formerly the majority leader in the Ohio House, volunteered a statement in opposition to the bill and the Taft-owned Cincinnati radio stations editorialized against the bill. The bill was also

considered against the background of a continuing controversy at Ohio State University involving the acceptability of guest speakers suspected by some of maintaining a Communist affiliation.

In the course of the legislative debate, it was brought to the committee's attention that then-Senator Goldwater had expressed a view inconsistent with the pending bill during his own appearance on the Ohio State University campus as a guest speaker. In the course of his address on campus in 1961 Senator Goldwater observed: (And I quote)

I think that schools make a mistake when they deny their students the right to hear all sides. I even go so far as to say that if a man is a Communist and he wants to be invited to speak, let the students hear these people. The listening to these gentlemen will only broaden their knowledge and strengthen their convictions in one way or the other.

In describing the exceptional character of the North Carolina statute, it may also be useful to observe that recent efforts to persuade other states to adopt such legislation have been rebuffed. Within the immediate past year, similar bills were introduced in the New Hampshire, and Virginia, and South Carolina Legislatures and failed of adoption. It is also true that an earlier 1953 Speaker Ban in effect at the University of California was repealed by the Board of Regents in 1963 and that since that time guest speakers who frankly acknowledge their affiliation with the Communist Party have, in fact, appeared without censorship on the University of California campus. The restriction adopted by the North Carolina Legislature is also in contrast with the policy in effect at the University of Minnesota as evidenced by University President Wilson's statement respecting the on-campus appearance of a self-acknowledged Communist

in 1962. The Communist was Mr. Benjamin Davis, a professed officer of the American Communist Party. When the controversy arose with respect to the prospect of his appearance, this was President Wilson's response:

We believe it would be a disservice to our students and an insult to our nation's maturity if we were to deny Mr. Davis an opportunity to speak. Over-protected students might at once assume that Davis had something to say which was too strong for our reasons and our convictions. The University is the product of a free society. It is neither afraid of freedom, nor can it serve society well if it casts doubts on the ability of our free institutions to meet the challenge of doctrines foreign to our own.

The policy position of President Wilson has been reiterated under similar circumstances by President Fleming of the University of Oregon where self-acknowledged speakers have also spoken within the past two years.

So far as it has been possible for me to determine, state speaker bans applicable to educational facilities and otherwise similar to the North Carolina statute have been tested on constitutional grounds on three occasions. The first of these in 1946 involved a challenge to California statute forbidding school auditoriums to be used by "subversive elements." The statute was held to be unconstitutional on its face under the equal protection clause of the Fourteenth Amendment. The second case arose in 1962 involving a challenge to a regulation at Hunter College and I must acknowledge this is a regulation -- not a state statute in this incident. The regulation restricted the use of the college auditorium to speakers whose presence the administration deemed "compatible with the interest of Hunter College in higher education." This regulation was held to be unconstitutional under the Fourteenth Amendment as a denial of equal protection as applied and as void on its face for vagueness.

The third case also arose in 1962, although it was not finally decided on appeal until 1963. In this case an inferior state court had enjoined the State University at Buffalo, New York, from permitting Herbert Apthecker, an acknowledged member of the Communist Party, from appearing on campus as a guest speaker. On appeal, the injunction was reversed in a unanimous decision. In overturning the lower court's injunction the appellate court observed:

Petitioner contends that allowing avowed Communist to preach their ideology at a tax-supported university cloaks their activities with a mantle of academic and intellectual integrity which makes their subversive propaganda more susceptible to impressionable young people, but we believe that the tradition of our great society has been to allow our universities in the name of academic freedom to explore and expose their students to controversial issues without government interference.

Now this Commission should know that this case, Egan v. Moore, was the only case involving a speaker ban applicable to universities cited in the memorandum of the North Carolina Deputy Attorney General. The version of the case cited by the Deputy Attorney General, however, was solely the opinion of the lower court which had imposed the ban. As we have attempted to point out here, the lower court's decision was subsequently reversed on appeal and the ban was struck down.

Now the North Carolina Speaker Ban Statute itself, of course, has not yet been tested in Court. Should it not be repealed or substantially modified; however, it may become the subject of a test case which might be filed in an appropriate federal district court under two federal statutes which are suitable for the occasion. Such a case may be expected to be filed by any invited person banned under the statute from appearing to speak even in a lawful manner and

and on a lawful subject solely because he is a "known Communist" or "known to advocate the overthrow of the Constitution," or because he "has pleaded the Fifth Amendment in refusing to answer any question with respect to Communist or subversive connections in the course of a state or federal committee investigation." Now it may also be expected that any members of the university community kept from successfully inviting such a person to speak on campus at a suitable place and time otherwise available for his appearance would be free to join as plaintiffs in the federal action to enjoin the statute. This is because, though the First Amendment speaks in terms of freedom of speech, recent case precedent from the United States Supreme Court makes perfectly clear that the reciprocal right to hear is equally protected by the Amendment as the right to speak. Thus those denied access to speakers and appropriate places would also have standing to raise the Constitutional issues. Now, essentially, the claims which we may expect to be advanced by such individuals is that the North Carolina Speaker Ban Law is an unconstitutional abridgment of freedom of speech and in violation of the First Amendment to the Constitution as made fully and equally applicable to the states through the due process and equal protection clauses of the Fourteenth Amendment. More particularly, the Statute would be attacked on the following basis:

1. That the Statute is void on its face because it is impermissively vague and excessively broad in violation of the due process clause.
2. The Statute is void on its face because it is an impermissible prior restraint on freedom of speech.

3. The Statute may be invalid as applied to any speaker with respect to whom it cannot be shown by very substantial evidence that the speech he is invited to deliver would probably precipitate a serious violation of law and for whom it can be shown that suitable facilities are available for his appearance and that members of the University Community desire to hear him.

4. The Statute may be invalid as an unconstitutional condition as applied to any speaker who is banned solely because he has previously invoked his Constitutional privilege against self-incrimination, and

5. The Statute may be invalid as a denial of equal protection.

Now I apologize for what may seem to be the professional character of describing the grounds of objection. I have tried, as I indicated at the outset, to establish those grounds in as comprehensive a fashion as I can. I'll take the liberty now to try to set down some of the basic considerations, some of the basic Constitutional standards, against which I believe the Federal Courts are obliged to test the Statute and under which it is altogether likely they would find it constitutionally wanting. I would observe first that it has been held to be an unconstitutional abridgment of freedom of political discussion in violation of the First Amendment which does apply equally to the states where direct statutory prior restraints on political discussion or misdirected not to the character of the speech which is proposed to be presented on the particular occasion, but to some unrelated conduct or incidental affiliation of the speaker. The test generally followed by the Supreme Court is that restrictions on freedom of political discussion are

tolerable only when you can show that from the proposed speech there will arise a high probability of so grave an evil which cannot be avoided by any other means, that then restriction of the speech itself becomes the necessary and therefore Constitutional means. The North Carolina Speaker Ban Law is not limited to a ban on dangerous speeches; rather, it forbids certain classes of persons from speaking at certain places whether or not anything they are likely to say at the time would probably precipitate some grave evil. Because the Statute restrains speech regardless of the character of the speech itself and solely on the grounds of the incidental affiliation or previous conduct of the speaker, it is invalid. The leading case on point is *Dagone (sic?) versus Oregon*. The language in the case which I think simply underscores what I have tried to outline in less graceful language is this, and this is the statement of the Supreme Court. Rights of free speech may be abused by using speech, or press, or assembly in order to incite violence and crime. The people through their legislatures may protect themselves against that abuse, but the legislative intervention can find Constitutional justification only by dealing with the abuse. The rights themselves must not be curtailed. The question, if the rights of free speech and peaceable assembly are to be preserved, is not as to the auspices under which the meeting is held, but as to its purpose not as to the relations of the speakers but whether their utterances transcend the bounds of the freedom of speech which the Constitution protects. That, I think, is the pervasive defect of the Speaker Ban Law. Second, the Statute denies the equal protection of the law by discriminating

among invited speakers at public universities on the impermissible basis of unrelated political affiliation or past conduct alone. Even assuming that the State is under no duty to permit anyone to be invited to speak at any state-supported college, the State is nonetheless forbidden by the equal protection clause from discriminating among those whom it does permit to appear on its campuses solely on the basis of unrelated past conduct or affiliations. The equal protection clause is based in part on the proposition that no state government can use the wealth it derives from all of the people in a discriminatory manner unequally favoring only some of the people. The leading case, of course, familiar to every member of this Commission is Brown versus the Board of Education. It did not follow in that case from the given fact that the State was under no duty to establish any school. It did not follow that because that was so it was also the case that whatever schools they cared to establish they could establish on whatever terms they chose, including that of racial segregation. Proposition was not the duty of the State to provide schools. The proposition here is not the obligation of this State to permit guest speakers as a group to be invited to campus. It has to do with distinctions made by the State among those whom it does permit to appear.

In the language of the court in the Brown case, such an opportunity where the State has undertaken to provide it, is a right which must be made available to all on equal terms or again from the 1965 Supreme Court decision striking down postal regulations imposing certain restrictions on the sending of Communist propaganda. The law was invalidated this term. In the language of the court, if the government wishes to withdraw a subsidy or a privilege, it must do so by means and on terms which do not endanger First Amend-

ment rights. Finally, it was precisely the equal protection grounds that accounted for the decision in the California Speaker Ban case, Danskin versus the Unified San Diego School District. This was the language of then Judge Roger Trainer, now Chief Justice of the California Supreme Court. It is true that the State need not open the doors of a school building as a forum and may at any time choose to close them. Once it opens the doors, however, it cannot demand tickets of admission in the form of convictions and affiliations that it deems acceptable.

Finally, as a kind of footnote to the general misunderstanding as to the difference between constitutional rights and constitutional privileges, the court had this to observe and to further equal protection case. It is too late in the day to doubt that the liberties of religion which were involved in that case, an expression which the court added by way of observation. It is too late in the day to doubt that these liberties may be infringed by the denial or placing of conditions upon a benefit or privilege.

Third, the statute is unconstitutionally vague and impermissibly broad in violation of the due process clause of the Fourteenth Amendment. Statutory restraints on speech have been sustained only when the words of the statute were precisely tailored in such a fashion as to provide clear notice of what is covered by the statute, to eliminate discretion in its application by those who are responsible for administering it, to provide unequivocal standards for review by the courts should they be called upon to review it, and finally to keep citizens from having to guess whether or not what they may propose to do or to say would violate the law.

Again, may I turn to several of the observations made by the Supreme Court in cases dealing with freedom of speech. In a series of decisions this Court has held that even though the governmental purpose be legitimate and substantial, that purpose cannot be pursued by means that broadly stifle fundamental personal liberties when the end can be more narrowly achieved. The breadth of legislative abridgment must be viewed in the light of less drastic means for achieving the same basic purpose.

From another case, Bantam Books versus Sullivan, any system of prior restraints of expression come to this Court bearing a heavy presumption against its constitutional validity. Now I will not take this opportunity to enlarge upon the ambiguity of this statute. From my recollection of your inquiry yesterday, it seems to me that this is a matter now almost famously established. The critical phrases in this bill, however, freighted with ambiguity include these -- known member, known to advocate overthrow of the Constitution, subversive connections. Now, I have selected these, not because they are the only ambiguous phrases, but because practically every one of these phrases have been involved in some other statute reviewed by the Supreme Court under a challenge that it was void for vagueness. Virtually every one of these phrases as tested in these other statutes has resulted in a Supreme Court decision that the statute employing this kind of imprecise language is unconstitutionally vague and I will spare you the chore of reciting the cases but they are included in the memorandum and I am most agreeable to receive questions about them. For these and other reasons, therefore, reviewed in the memorandum, it is my judgment the North Carolina Speaker Ban is unconstitutional on its face. I should add that in preparing this statement and the memorandum the opinion of the Deputy Attorney General of 1963 has been carefully considered.

Chairman Britt: Are you ready for questions?

Van Alstyne: Yes, sir.

Chairman Britt: Well, I'll start at the other end of the line this time and see if Mr. Myers has any question to ask the Professor.

Myers: As a layman, no questions.

Chairman Britt: I'll ask Mr. Fisher if he, as a minister, has any questions to ask the Professor.

Fisher: No, sir.

Chairman Britt: Well, I know Mr. Thornburg has some questions and I recognize him.

Thornburg: I'm going to yield to the dean of our bar group here, Colonel Joyner, as I am sure he has quite a few questions.

Colonel Joyner: Mr. Chairman, I suggest that we express our very sincere appreciation to Professor William Van Alstyne for his talk and for his very careful brief. This is a matter that requires study and extensive thought, and I suggest that that brief be filed with the subcommittee of lawyers of this commission who have had the Attorney General's brief; that a copy of it be

sent to the Attorney General with request that he file, if he desires to do so, a reply brief and that we take up the matter for consideration as a subcommittee immediately prior to our meeting in September.

Chairman Britt: Thank you very much, Colonel Joyner. Those suggestions will be carried out. I was provided with several additional copies of the brief, and I will certainly see that that is transmitted to the Attorney General's office.

Colonel Joyner: I also suggest, I don't want to make it an endless process, but as a courtesy to Professor William Van Alstyne that the reply brief, that the Attorney General be requested to send a copy of the reply brief to him also, and if he wants to make any comments we're glad to permit him to do so.

Chairman Britt: That will certainly be done. I recognize Representative Zollicoffer for any question he might desire to ask.

Zollicoffer: I would like to ask one question. Do you believe or in your opinion if we constitutionally pass the law in the General Assembly which would say that no person to speak as we have limited here without taking an oath to support the Constitution of the United States and the Constitution of North Carolina make that as a requirement or a precedent to speaking at any of the state-supported institutions?

Van Alstyne: If the oath were as circumspectly drawn as that, I cannot anticipate now a significant constitutional objection to it. I can imagine complaints being made. I am not sure that it would be quite clear as to the function served; what the function served by the oath would be. It might be claimed by some who regarded it as, if not a mere nuisance, as somehow a reflection upon their integrity simply by being subjected to the requirement of having so to swear. But offhand, an oath as simple as that -- a simple affirmative commitment -- the constitutional government and the United States certainly is not objectional under the cases that I have reviewed coming from the Supreme Court. I should caution you as well as myself about this matter, however, that within the last five years there has been an increased number of loyalty oath cases coming to the Court. To the best of my knowledge not one of them has survived. May I treat you simply to one illustration because I think it may fit in again with the vagueness in this particular statute.

Forgive me if this seems a terribly indirect way of responding, but the University of Washington has had a loyalty oath which, among other things, required a faculty member to forswear an intention of overthrowing the Government "by revolution." You will notice even that is some addition to the qualification currently impressed upon our statute. Even so, in Bagot versus Bellot, a case decided a year-and-a-half ago, the Supreme Court found that even that qualifying phrase left too

much to be guessed at as to what was meant by revolution. They suggested, for instance, that in the most literal sense revolution is consistent with any rapid and fundamental change, such as that which would be accomplished by a swift Constitutional amendment. Consequently, those who may contemplate overthrowing the Government by Constitutional amendment through legal processes might conscientiously not be able to take that oath and thus be discouraged from seeking this form of public employment. But you see even that attempt at clarification was insufficient. I've not meant to use your question as a springboard for getting back into my memorandum. I mean to use it only to indicate that when we, in this informal setting, try to suppose the precise character of an oath, I have to be terribly cautious in anticipating what the result would be because it does depend so very much on the preciseness of the oath itself.

Zollicoffer: The only two provisions were the support of the Constitution of the United States and the Constitution of North Carolina, and I understand from you that you believe that would not be unconstitutional and would be all right.

Van Alstyne: I believe it would.

Zollicoffer: And I would think that a person, a Communist, couldn't take that oath, one who advocated overthrow of the

Government couldn't take that oath, and one that had taken the Fifth Amendment would refuse to take that oath. Thank you.

Chairman Britt: Senator Kirby, do you have a question?

Kirby: I don't believe I have any at this time.

Chairman Britt: Mrs. Swindell?

Mrs. Swindell: No, I have no question now, thank you.

Chairman Britt: Senator Hanes?

Senator Hanes: I have one question, but I would like to precede the question by a statement, a brief statement. I have noted here a sense of hurt feelings on the part of these people that they were not informed, advised, and sent a copy of this bill before it was introduced in the House and sent immediately to the Senate. In order, perhaps, to assuage your tender sensibilities, it might help you to know that as a member of the North Carolina Senate I didn't see a copy of the bill until it reached the floor either. So that ought to clarify that. The question for Professor Alstyne I have -- I am sort of involved in a problem with the word facility. You will note that the law says the facilities of the universities, colleges, and so forth. How would you define facility?

Van Alstyne: Well, I hate to make a response which you would necessarily regard as self-serving. I cannot define it. I cannot define it in the context of this statute. It's most appropriate that you would select that word among others.

Professor Pollard, who teaches constitutional law at the University of North Carolina, drew attention to that particular word in the course of his article, which incidentally also concludes that this statute is unconstitutional on its face, and he is not clear, nor more to the point, does he find that the statute makes clear what is a facility. There are, I take it, certain stadia here which may nominally be under the ownership of the university and it may be -- was it yesterday in the course of the hearings that someone raised the prospect that a Communist who may cheer for one team or the other is technically in violation of this statute, depending upon how you define that word. But let me add one thing to anticipate responses you may get from others.

I have no doubt that there will be others who feel themselves personally qualified to render a very coherent definition of facility. All I am submitting to you is that there will be reasonable differences among men. I might not agree. You might not agree. The constitutional point is the statute itself does not make the matter clear. Whether the Deputy Attorney General would include a college stadium is quite

beside the point with regard to the ambiguity of the language of the law itself. The Supreme Court has not, in this area of the law -- it has not deferred to constructions of the statutes which may be made through so an informal a process as an Attorney General's opinion. It has taken the view rather that the mere presence on the statute books of a law, the language of which is so sweeping and so vague, the mere presence of it may so tend to inhibit constitutionally protected speech that the statute will be declared void on its face. Now I put the emphasis on this phrase because as you know in most cases testing the constitutionality of a statute you really do not test the constitutionality of the statute as it might be applied to all possible circumstances, but you just test its constitutionality as applied in this case. That is not the case with regard to prior restraints on freedom of political discussion, and I am very happy to have the opportunity simply to make that point emphatic -- that no matter how clear individuals may feel in their own mind as to the particular meaning of these words, if the statute fails to telegraph that meaning itself, it seems to me, under quite a line of precedent now, it is quite vulnerable.

Hanes: Could I make a question more specific? Webster defines facility as "a thing that promotes the ease of any action, operation, transaction or course of conduct; advantage, opportunity usually

in plural as a special facilities for study." The American Society of Mammalogists rejected an invitation issued by someone at our State College to hold a meeting along the coast of North Carolina on the grounds that the word facility as used in this law now and included the department organizing the meeting those people involved in the organization, the equipment which would be used, borrowed actually from the university, and on that basis they felt that since many of their members, not many but a number of their members, who would be in attendance came from Poland, Czechoslovakia, or behind the Iron Curtain. They were, therefore, forbidden to come and speak on what appeared to me to be some rather esoteric subjects, such as the house mouse in the neighborhood and vicinity of San Francisco and the Bay area which doesn't seem too dangerous. Would you so define the word facility to include not only the buildings and grounds but also equipment and in addition to that the Department of Zoology, for example, as a facility of a university?

Van Alstyne: I don't know. If I thought about the matter and read Webster and tried to search other uses of the word facility whether I would agree with that conclusion. Not to beg your question, but to answer it in a different way, I think

the only significant point is whether or not their interpretation was a possible and reasonable one. If there is, if their impression of the meaning of the law is a reasonable one because of the vague language of the law, this is one of the best kinds of illustrations that one can possibly bring forward for the vice or vagueness in the statute itself, where we may suppose that, in fact, they are mistaken in their impression. The point then has been that they have been cajoled out of exercising a right, being deceived by the broad language of the statute. It is, therefore, the vice of the undefined words in the statute itself which inhibited speech which would have been protected, indeed was not even intended to be covered. So rather than venturing a personal opinion I would simply reiterate that the illustration seems to me to make the point in as fine a manner as one could, that the language itself is simply impermissively vague.

Hanes: That's all I have.

Fiddler: Mr. Chairman.

Chairman Britt: Yes, sir.

Fiddler: May I make a correction in an implication that I let pass earlier this morning because I did not have the information before me? The question was put to me: Is it not a fact

that we censured the University of Washington some years ago? And I answered that I had not read the... and then the question went on to say what were the circumstances under which the censure, and I begged the question by saying that I had not read the report in some nine years. Since that question was put to me I have read the report and we did not censure the University of Washington. I would like to have that matter straight. Now some, shall we say, so-called right-wing organizations, and I could name them, had distributed literature to the effect that we have not only censured Washington University at St. Louis, presumably they mean, but the University of Washington. We published a report on the University of Washington, but we did not censure the administration of that institution.

Chairman Britt: Thank you, sir. Professor Dawson, I notice our time is growing short and we have not heard from the fourth member of your panel. Did you propose to have a formal presentation from her?

BROWN: A very brief one, Sir.

CHAIRMAN BRITT: I recognize the lady from Duke.

BROWN: Fellow citizens of North Carolina, many of the local Chapters of the AAUP in addition to North Carolina State Conference of the Association have expressed their opposition to the Speaker Bank Law and have worked with the National Association in efforts to secure repeal of the law. The comments which I shall make now are in line with the question of academic freedom.

The process of education is a training in the investigation and the assessment of reliability of facts, of their relationship to each other, and of the reasonable conclusions that can be drawn from them. To achieve this end, all pertinent information should be available. No area of knowledge or facts or ideas should be barred. Similarly, any method of investigation which can reach to discovery of new information or new ideas should be allowed and encouraged. To forbid certain sources of information as by denying the right of certain people to speak on the campuses of State-supported institutions is to follow the methods of totalitarian countries as demonstrated in the Nazi and Communist countries. I should like to illustrate this point by an example taken from the history

of the study of genetics in Soviet Russia. Many years ago a theory of inheritance of acquired characteristics was investigated by geneticists. In the western world the experimental evidence against this theory led to its abandonment by 1925. But in Russia, this theory fitted in with the Communist ideology and an aggressive geneticist named Lysenko spearheaded the movement to make this theory the dominant one in Soviet genetics and to reject any other basis for investigation. Lysenko, with the support of Stalin, was able to suppress all opponents of his idea and the leader of the group which followed the theories and experimental methods of the western world died in a labor camp in Siberia. Under Kruschev there was some relaxation of the political domination of scientific investigation, especially in mathematics and the physical sciences. Lysenko, while still very influential in the field of genetics began to lose some of his power. The success of free investigation in the western world and the backward state of genetics in Russia have now led to his removal as Director of the Institute of Genetics of the Academy of Sciences of the USSR and the re-organization of the institute along western lines. His removal was announced by the President of the Soviet Academy of Sciences in these words, the exclusive position held by academician Lysenko must not continue. His theories must be submitted to free discussion and normal verification. If we create in biology the same normal

scientific atmosphere that exists in other fields, we will exclude any possibility of repeating the bad situation we've witnessed in the past. What is true for the sciences is also true for other areas of knowledge. Freedom to make known to others, either by publication in books or orally in lectures, the results of one's investigations is essential. Since in either case it is submitted for criticism, that is, in the words used by the Soviet academician free discussion and normal verification. In this way attention is drawn to the weak as well as the strong points presented. New ideas for investigation can be considered and new light shed on the reliability of facts and their possible relationships. Academic freedom also means that a professor shall be free to criticize established institutional policy and to express his convictions as a citizen without fear of reprisal. Here, also a free discussion of the issues often brings to light new aspects of the subject and leads to wiser decisions. What is to be gained by the citizens of North Carolina in return for academic freedom at its institutions and here I would quote again from the 1940 statement of Principles which has been referred to you, "Institutions of higher learning are conducted for the common good and not to further the interest of either the individual teacher or the institution as a whole. The common good depends upon the free search for truth and its free exposition." The free search for truth and its free exposition

must be conducted primarily by the faculty and students with the support of the administration and trustees. Leadership in this research must come from the faculty. If the members of the faculty are hampered in their main objective and the avenues of investigation are closed to them as has happened in totalitarian countries or states, we can expect that in a free country the same exodus which has occurred in similar situations at other institutions will take place. Conditions which bring about this exodus likewise make replacement by highly qualified faculty more difficult. Thus, the violation of academic freedom imposed by the Speaker Ban Law leads to a decrease in the prestige of the public institutions of higher education in North Carolina and to failure to achieve the high purpose for which the institutions were founded. Inevitably the failure to keep able faculty or to attract outstanding faculty members will result in a lower quality of education for the boys and girls who will become students at the state supported institutions.

CHAIRMAN BRITT: Mrs. Swindell, I recognize you to ask the lady any question you so desire.

MRS. SWINDELL: Oh, this is a surprise. I don't really know that I have a question to ask you except that your desire for complete academic freedom on the colleges is absolutely

evident everywhere. There's no question about that. Then when it is taken away, you do censure colleges sometimes, don't you?

BROWN: This I should say. I think that has been explained by our general secretary.

MRS. SWINDELL: You do censure colleges when.

FIDDLER: I can think of several administrations that were censured.

MRS. SWINDELL: Well, all right, would you name some of them?

FIDDLER: Yes I would. Some of these have to do with suppression of views on the desegregation issue and this is a group of institutions that have been deeply concerned over the desegregation issue. Take the case of Auburn University in Alabama where a teacher answered a student letter in a student newspaper and the teacher in his letter advocated that racial segregation, racial integration should be promoted and desegregation encouraged. This teacher was dismissed from Auburn University for having written that letter and presumably for having taken such a view as this and we investigated the case and censured Auburn University. At Texas Technological College we had three teachers who were summarily dismissed largely at the instigation of the Board, the president of this case did not go along with the Board initially. One of these teachers was a psychologist who had

published, first of all, an article dealing with the segregation of the sighted from the sightless and I might say then that he was accused of favoring segregation as a result of that. I would go on to say that he was opposed to segregation and made it perfectly clear when the issue was raised. Another teacher who was dismissed was said by his colleagues to be a member of the wrong unit facet of the Democratic Party in Texas and there was great criticism of his political activity. A third member who was dismissed from the Texas Technological College was largely in charge of extension services and had encouraged a wide variety of seminars and discussions and a wide variety of civic topics and some members of the Board of Trustees and supporters of the institution were opposed to the breadth and frankness of the discussion which he encouraged. We investigated Texas Technological College and censured that institution. I could go on (Mrs. Swindell: I see you can.) and give you the facts behind them but I might list some of the others that are presently on our censure list. You can ask about them one by one. Jefferson Medical College, North Dakota State University, Catawba -- I'm sorry, this list is out of date. You don't have a late... -- College is now off the censure list, Auburn University, Texas Technological College, Fisk University, Lowell Technological Institute, Benedict College, Alabama State College, South Dakota

State College, Alcorn Agricultural and Mechanical College,
Arkansas State College, Grove City College.

CHAIRMAN BRITT: Dr. Fiddler, I believe we'll have to stop at that point, and since you mentioned one North Carolina institution, Catawba, I believe, would you mind telling us the reason for that censure.

MRS. SWINDELL: That's right.

FIDDLER: This was not primarily an academic freedom matter at Catawba. The incident occurred before I joined the Washington Office and I am speaking now from about a nine year old memory of having read the case. But my recollection of it is that there was a severe dispute between the teacher involved and the college president and the issue boiled down to which one had to go and the teacher left. The teacher's right to free speech was involved but there was -- he was not given due process, not given a full hearing and our decision, as I recall it, was based primarily upon an absence of procedural due process with regard to this dismissal.

BRITT: Mr. Zollicoffer, 'scuse me, Mrs. Swindell.

MRS. SWINDELL: I just want to ask you one second then, your censorship is more confined to individual cases and related to the teachers in the college rather than to the administrations or the colleges themselves. Is that right?

FIDDLER: The injury is usually suffered by the teacher and that is, of course, the beginning of the case.

MRS. SWINDELL: In other words, you more or less take the individual case of the teacher rather than a whole, well, board of trustees or something like that who makes a decision.

FIDDLER: Well, I might say that we have another area of interest which we call college and university government and that embraces faculty participation in university government. We have not censured an institution yet because we think that their policies and their relationships are poor. We have investigated for, we have published reports. We have followed three or four other instances very carefully, we have sent consultants in and we've done everything we could to assist all parties to bring about good government but as yet we have not voted a censure on the basis of poor relationships between administration and faculty.

CHAIRMAN BRITT: Mr. Zollicoffer has one question.

ZOLLICOFFER: I have been listening with a great deal of interest to you censure the colleges and universities; I assume you have a code of ethics of standard by which your members should conduct themselves. Now, have you ever censured any of your members for failing to live up to your code of ethics?

FIDDLER: Well, as Mr. Dawson pointed out, the specific text of our statement on faculty responsibility has not yet been adopted. We are at work upon it now. As a member of the Washington staff, let me say that certain matters related, maybe not to the larger area of ethics but to what you might call professional responsibility have come to our attention and we have been rather direct with a number of people. For instance, with regard to whether an individual who has received a sum of money to go on a leave of absence and has later decided not to go back to that institution, as to whether he has an obligation to return the money that he received and if that is a part of the regulation and a part of the understanding that he would return the money or return to the institution, we have spoken in no uncertain terms that it was his responsibility to do so. Now the same thing might be said with regard to late resignations. We have written some rather firm letters with regard to persons who have resigned we think too late in the year with regard to the standards that we uphold. We've been frank on that. So, until we get our full-fledged and developed statement of ethics, we are a little bit at a loss to cite policy and text and we play this more or less by ear. Now, we do have a statement with regard to resignations.

ZOLLICOFFER: As a general statement as to the conduct of your members in their profession as faculty and teachers, you do not have or you have not adopted since your organization has been in

existence a code of ethics or a conduct by which they must live and operate in their profession as a teacher.

FIDDLER: We have had a committee on ethics which has through the years examined situations that have been presented to that committee and has given, that committee has given, opinions with regard to how those matters should be resolved. Now, a code of ethics in the sense of the medical profession, or the legal profession in great detail, we have not yet developed. I read you a statement with regard to faculty responsibility on utterance which just a little bit earlier regarding faculty members responsibilities.

CHAIRMAN BRITT: I assume now that Dr. Dawson and Mr. Fiddler, and Professor Alstyne and Professor Brown that you are now satisfied to leave your case as an organization at this point, or would you prefer to come back at 2:00 for any further information?

DAWSON: Mr. Chairman, I think I speak for all in saying that we really have nothing very important and new to say but I would like to comment before we close by saying how grateful we are to the Commission for allowing us to appear, for the extreme courtesy that we have been treated with, under what I consider to be, some very sharp cross-examination. Nevertheless,

we've enjoyed it. We found it a very pleasant and informative experience.

CHAIRMAN BRITT: We are certainly, as Chairman of the Commission and on behalf of the entire Commission and others interested, I express our appreciation to each of you for coming and being with us at this time. And unless some, does any member of the Commission have one more compelling question to ask before we take our break? Give us just a half minute here and let my colleague analyze a note that is

SENATOR KIRBY: Mr. Britt, while we're waiting on the answer here, may I ask a question?

CHAIRMAN BRITT: Go right ahead, Senator.

SENATOR KIRBY: Trying to combine the information provided for us by Dr. Dawson and Professor Van Alstyne, do I understand you to say that it is both proper and possible for the General Assembly to pass a law regulating what is said but it is not proper and not possible constitutionally to pass a law that would regulate who says it. Is that a recap of what you said?

VAN ALSTYNE: Professor, I'd agree with that. That's right. It's the difference between the first section of your '41 law which prohibits certain forms of incendiary advocacy. What is said

and who says it. I quite agree.

SENATOR KIRBY: Thank you.

CHAIRMAN BRITT: Any other question by a member of the Commission? If not, the Commission will now adjourn or recess until 2:00 sharp at which time we'll hear from the American Legion. Thank you very much.

HEARING BEFORE SPEAKER BAN STUDY COMMISSION

State Legislative Building

Raleigh, North Carolina

Thursday, August 12, 1965, 2 p.m.

Hearing before Speaker Ban Study Commission
State Legislative Building
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Chairman Britt: Ladies and Gentlemen, as we now open the final session of these hearings of this particular series of hearings, we're going to have this afternoon a presentation by the North Carolina Department of the American Legion. We're very pleased to have in our auditorium this afternoon a large number of people. I believe this is about the largest group that we've had during these two days of hearings, and we certainly want you to know, and I speak for every member of the Commission, that we're glad to have you. We appreciate your interest in coming. I would like to say at this time that our sessions throughout yesterday and this morning and up until this time have been conducted in what I hope was a very calm manner and with a view of trying to get information by members of the Commission and to disseminate over the news media that information to our fellow citizens of North Carolina generally. I would certainly hope that during this session this afternoon that we will continue to follow that procedure and that policy. I know there will be times when members of the audience would like to applaud what some speaker says and may have some more Baptists out there like myself and Phil Godwin that would like to say

amen once in awhile, but I believe it would be well for us to leave that off completely if we can because of the fact that we are trying to proceed in an orderly manner and because of various other factors which we have in our working relationship with the news media at this time. I would like to take this opportunity to say that the Commission voted yesterday afternoon to hold further hearings on Wednesday and Thursday, September 8 and 9. Now at that hearing on the 8th we're going to invite college presidents, chancellors, chairmen of boards of trustees, and others connected with our state-supported colleges and universities to come in on that date and appear before the Commission to provide the members of the Commission and the public generally with information. Specifically, we want to know from these institutions if they or each of them has been hurt by the Speaker Ban Law, if it expects to be hurt or injured by the Speaker Ban Law if it continues to stay on the books, and, if so, how. We want to get down to specifics on this proposition, and that inquiry on the 8th will be directed to that end.

Now, on the 9th, September 9th, the Commission will sit again and will hear from other organizations and groups that desire to be heard, and that is the reason that I take this opportunity to try to get the word out to those

listening by radio, those observing on television, and by means of the news media that any group that has not already appeared and that is not appearing this afternoon as an organization that wants to be heard on Thursday, September 9, 1965, to please write to me, David M. Britt, Fairmont, North Carolina, and I will be glad to communicate with you.

As indicated, our session this afternoon is in complete charge of the North Carolina Department of the American Legion. We have several distinguished officers of that fine organization with us this afternoon. I'll state to begin with that I'm also a member of the American Legion and a former commander of my Post, and I'm proud to present at this time Mr. (excuse me just one minute). Before hearing from the American Legion, and I apologize for this break, but Colonel Joyner has just called to my attention something that is very important as a carry-over from yesterday's session and this morning's session, and I recognize him at this time for a brief statement and whatever he cares to say.

Colonel Joyner: Mr. Chairman, I ask for this opportunity at this time because I had been informed that the American Legion proposes to go into the question of the effect of withdrawal of accreditation upon a college. In that connection and because it may throw some light on what they may have to say,

I call attention to the fact that yesterday during my questioning of Dr. Fields and of Dr. Boozer I indicated I think quite plainly my view that the precise cause of a withdrawal of accreditation would have an important effect upon the severity of the withdrawal of that accreditation, and I asked Dr. Boozer in connection with an exhibit that he presented on the basis of which he made some statements as to the possible or probable effect on Federal grants if he would send to us a copy, an exact copy, of the letter of information and inquiry which he sent to the Federal agencies. He very promptly and graciously complied with that request. That was received by our secretary this morning, and I have that before me, and I think it quite important in my opinion that the members of the Commission and the public be acquainted with that and recognize what I think is the desirability of attaching a copy of that letter to that exhibit about Federal grants. And to illustrate that and for your information I would like to read those sentences in the beginning of Dr. Boozer's exhibit which describe his inquiry. He says that the request to Mr. David M. Britt, Chairman of the Governor's Commission to Study the Speaker Ban Law a letter was sent to a number of Federal agencies which administer a variety of loans, scholarships, contracts, research, and other higher adult education programs. The letter noted that the tax-

supported institutions of higher education in North Carolina have been advised by the Southern Association of Colleges and Schools that their accreditation by this regional accrediting agency might be in jeopardy due to the 1963 Speaker Ban Law which has been interpreted as preemption by the State Legislature of the traditional policy making and governing authority of the institutional boards of trustees. Now this morning we received this copy, and this is the precise copy bearing the signature of Dr. William C. Archie. Colonel Josephus A. Bowman, Director of Education Program, Department of Defense, Washington, D. C., with the attachment showing copies to the other agencies. I think there are ten of them.

"Dear Colonel Bowman:

"Owing to the Act passed by the 1963 North Carolina General Assembly which apparently preempted traditional authority of the trustees of our tax-supported higher education institutions, these institutions have been warned that their traditional accreditation may be in jeopardy. If they are actually put on probation or are removed from the accredited list of the Southern Association of Colleges and Schools, what effect would this step have on grants that might come from your agency? This in-

formation would be most useful to us and I should appreciate hearing from you at the earliest."

I'm sure, Mr. Chairman, that neither Dr. Boozer or Dr. Archie attached the significance which I attached to the fact that the threat of loss of accreditation was based solely on a law which dealt with the exclusion of Communists, takers of the Fifth Amendment, and those who had advocated or been members of an organization advocating the overthrow of government. Thank you.

Chairman Britt: Thank you, Colonel Joyner, and I'm sorry that this communication did not include a copy of the Speaker Ban Law to these various agencies that were inquired of, and in order that there might be no misunderstanding on their part or on our part as to those agencies receiving full information, I propose within the next day or so to write each one of them, refer to their letters, send them a copy of the Law, and ask them that after full consideration of the copy of the Law that their answer to the inquiry would be the same. That will certainly be shared with the Commission in the very near future. At this time I now recognize Mr. Dudley Robbins of Pender County, presently National Committeeman of the American Legion and a past state commander. Mr. Robbins.

Mr. Dudley Robbins: Mr. Chairman, members of the Commission, my purpose is to explain why the American Legion is interested in this Communist Ban Law. We do not intend to discuss the merits of the Law. The fact that the American Legion is appearing here in favor of the Law shows that we feel the Law is good, that it was and still is necessary. We will attempt to show with facts through our speakers as to why the American Legion favors this Law, why we feel there is a need for it, and why we continue to highly commend and praise those legislators who had the foresight, knowledge, and courage to enact this measure. Why the American Legion's interest? Why are 40,000 members and their families in North Carolina and our two and a half million members over the nation are concerned? We represent a cross-section of the people having members from all walks of life. For instance, our present commander is a farm equipment dealer. Before him we had a building contractor as a commander. Before him, a lawyer and a judge; before him a veteran service officer; before him an insurance representative, etc. The American Legion became interested in Communism early in its life. In 1919 while the American Legion was being organized, there was an effort to organize the veterans of World War I along Communist lines by the Industrial Workers of the World. The young American Legion did not then like Communism. At Centralia, Washington, on November 11, on

Armistice Day in 1919, four members of our organization were murdered by the IWW or Communist organization. These murders happened while the American Legion was holding its first convention in Minneapolis. From that convention and each ensuing convention, strong resolute statements and warnings have been given to our government and to the American people. For instance, we were the first to warn of the dangers of Castro. One of the major programs of the American Legion is Americanism. In the preamble to our constitution, we say For God and Country we associate ourselves together for the following purposes, and one of these purposes as stated, to foster and perpetuate a one hundred per cent Americanism. Not 99 and 44/100 per cent Americanism, but one hundred per cent, and we have felt that the place to foster and teach Americanism is to our youth. Hence has evolved the most extensive and far-reaching Americanism program in America today by any organization. Within our program we have the American Legion baseball program, our oratorical contests in which youth write and speak on our national Constitution, our Boys State, Girls State, Boys Nation, Girls Nation, a high school award program which we give awards for citizenship, our Sons of the Legion program, flag presentation awards, our Back to God program, all of these are part of our Americanism program. Our appearance here today not only represents the Legionnaires of North Carolina but also represents the

thinking of our national organization. In Dunn, North Carolina, on January 15th past, the national commander of the American Legion, Don Johnson of Iowa, had this to say about the North Carolina Communist Ban Law, and I quote: He was quoting Mr. J. Edgar Hoover about two years ago in a widely-used by-line used Mr. Hoover outlined the Communist party line and said, "The Party expresses encouragement over what it detects as a gradual awakening of American youth to its social responsibilities as evidenced by increase in participation in the struggle for Negro rights and academic freedom. However, the Party stresses the lack of employment opportunity for youths and calls for the end of the burden of military service. Because Communism thrives on turmoil, the Party is continuously attempting to exploit all grievances, right or imagined, for its own tactical purposes. It is therefore most inevitable that on many issues the Party line will coincide with the position of many non-conformists. Note well that he mentioned increased participation in the struggle for the academic freedom. This is the words of Commander Johnson. Then in light of the development of recent months on the campuses of the University of California at Berkeley, consider the wisdom of your own State legislature in enacting legislation that would ban known Communists from speaking on the campuses of your own tax-supported state colleges and universities. Your own legislature by its timely action

may well have prevented similar instances from occurring here. Of course, as war veterans, especially Korean veterans who fought and bled against Communism, we could get very emotional about Viet Nam in our continuing fight with world Communism. We will not discuss the merits of the Viet Nam war, whether or not we should be there, only that Americans are fighting and dying 9,000 miles away in Viet Nam, battling the atheistic Communism because our government has seen fit to send them there. So we feel very strongly about fighting them in South Asia, and at the same time coddling them at home, especially in furnishing them a forum at the tax payers' expense. Some of the boys and their parents who are dying in Viet Nam will have paid taxes to provide this forum in the past and maybe in the future if this Law should be repealed. Can we justify this so-called guise of academic freedom to these people? Our speakers will give facts and dates showing what has happened in the past and what repeal might allow in the future. We contend that if hoodlums are trying to break in our house to do us harm and we're standing them off with a gun in the front door, then our trusted wife should not invite them in the kitchen at the back door for coffee. The American Legion has strongly supported education since its birth. In 1921 the National Education Association approved the Legion's program for better education and citizenship, and the two organizations joined in promoting the first

American Education Week December 4-10, 1921. Since that time we of the Legion have been vitally interested in education and have been closely allied with the NEA. Commander Johnson said about that, I would be willing to place the American Legion's record of cooperation and assistance to the nation's educational system beside that of any organization in the country today, and let the record speak for itself. As a public school official myself, I approve of this alliance of the Legion's program to educate the youth of the nation to the dangers of Communism. I approve of such publications as this in teaching about Communism, Guide Lines, got out jointly by the National Education Association and the American Legion. We do not disapprove of teaching about Communism. We feel that the youth of America should be educated to the dangers of Communism, and we feel that teaching of one hundred per cent Americanism is necessary. I can see as a public official in schools that without a good watch dog the evils of Communism that are now infecting the college campuses of America, as quoted by Mr. J. Edgar Hoover, could soon be reaching into the secondary schools through the teachers, administration, and textbooks. We all know that the easiest group of people in a country to indoctrinate are the youth. The Communists are proving that every day. You just see it in the papers. I have traveled all over the state, extensively, since this Law was enacted and have addressed many groups and many,

many people. The only people that have openly taken issue with our support of this Communist Ban Law have been some of the officials of the Greater University. The point is that the rank and file of the people of North Carolina are in favor of this Law as it is, or in favor of making it stronger. We feel that if the people of North Carolina are called on to express themselves at the polls any attempt to appeal it would be overwhelmingly defeated. We will attempt in our presentation today to present outstanding speakers who are well-versed in our program. It is now a pleasure for me to present to this august body a great North Carolinian and a great American, the only man who has been twice awarded the alumnus award of his university, the president of the Alumni Association at East Carolina College, a State Senator, president pro tem of the Senate, a combat veteran, served in both World War II and Korea, an American Legionnaire. I present now Mr. Robert Morgan of Lillington.

Mr. Robert Morgan: Mr. Chairman, Mrs. Swindell, and gentlemen of the Committee, I appreciate this opportunity of appearing before you on behalf of the North Carolina Department of the American Legion. I shall present as best I can the position of the American Legion and my own position as an elected member of the North Carolina State Senate. I would at this time, however, like to make it clear that while I am presenting my own views as well as those

of the Legion, I do not purport to represent the views of any other group, organization, or club, or official body to which I may belong or hold an office. Mr. Chairman, the American Legion is proud of the institutions of higher learning and higher education in North Carolina. We are especially proud of the University of North Carolina, the university that we believe has led the way for education in the South and has led the way for the Southern Association, rather than the Southern Association leading the way or paving the way for the University. We recognize that perhaps as many great Americans have attended the University of North Carolina as any other institution in America and we value it very highly, and we want this Commission to clearly understand in the beginning that anything that we may say is not intended as to reflect on the great University of North Carolina, but we do respectfully say to the Committee, Mr. Chairman, that as human beings we all error (sic), and we all differ in judgment from time to time, and we are simply saying that there may be incidents in which we think the judgment of the administration of the University has been different from that of the Legion. We wanted to make that point, Mr. Chairman, as clear as possible in the beginning. We have high regard for the administration of the University. The American Legion supports the Communist Speaker Law which is now the subject of this inquiry and is and has been opposed to

Communism in any form or in any place. The Legion opposes the use of facilities of any state-supported college or university by any known Communist or by any person who is known to advocate the overthrow of the American government, or who has in fact pled the Fifth Amendment before any investigative body -- governmental body--concerning his subversive activities or his Communist activities. In our presentation this afternoon, we shall present to you information which we believe will establish, first, that at the time of the passage of the Communist Speaker Bill there was a clear and present need for such law and that that need exists today. Second, that it is not necessary for the Legislature of this State to permit state-supported colleges and universities to invite Communist speakers to the campuses in order to qualify for creditation and along with this we will present information which we think you will be interested in concerning the possible effect of loss of accreditation by the Southern Association, if this loss should come about; and, third, we will try to present information which will show that the law does not violate the right of free speech or academic speech and does not place restrictions on the overall operation and educational policies of our institutions of higher education.

Mr. Chairman, before proceeding further, I believe that it is pertinent to this inquiry that some understanding be had of the

Communist Party in the United States. In presenting this I can think of no more authoritative sources than the judicial decisions of our courts and testimony of Mr. J. Edgar Hoover, Director of the Federal Bureau of Investigation. It must be remembered that when we speak of the Communist Party, we are not speaking of an ordinary political party such as you and I know. Mr. Justice Jackson, speaking in the case of the American Communications Association versus Dowds, which is reported in Volume 339 of the United States Supreme Court Reports at page 382, had this to say: Every member of the Communist Party is an agent to execute the Communist program. The goal of the Communist Party is to seize powers of government by and for a minority rather than to acquire power through the vote of a free electorate. The Communist Party alone among American parties past or present is dominated and controlled by a foreign government. It is a party which to the threat of civil disorder adds a threat of betrayal into alien hands. More recently Mr. Hoover testifying before the House Sub-committee on Appropriations on March 4 of this year had this to say: The Communist Party in the United States has made every effort to obstruct all measures which our nation has taken to defend itself and to strengthen our allies against the threat of further Communist aggression. The Party has opposed practically all military, economic, and political agreements which we have

made with other non-Communist nations throughout the world.

At the same time the Party has defended such aggressive Communist actions as the Communist takeover in China and the European satellite nations and the brutal suppression of the uprisings in East Germany and Hungary, and we know today that it is supporting the Communist regime at our doorstep in Cuba. I will hand to you, Mr. Chairman, at the conclusion of our presentation several copies of the testimony of Mr. Hoover for the Commission's use and consideration. Mr. Chairman, there have been asked many times questions concerning what brought this Law on. What was the necessity of the Law, and to that--to those questions I would like to address my remarks for a few moments. Several months and less than a year prior to the adoption of the Communist Speaker Law, and to be exact, in June of nineteen-sixty---- the Communist Speaker Law which was adopted in June of 1963, the Chapel Hill Post No. 6 of the American Legion adopted a resolution which requested legislative investigation of certain activities at the University of North Carolina in Chapel Hill. This resolution was adopted by the State Department of the American Legion in Charlotte on June 22, 1963, and it was at that convention that a member of the General Assembly, The Honorable L. J. Phipps, was elected commander, State Commander of the American Legion. Just three days after the adoption of that resolution by the American Legion in

Charlotte and approximately seven or eight months after the adoption of the resolution in Chapel Hill, the Communist Speaker Law that we are now looking into was adopted. So that there may be no doubt as to the activities and events which made this law necessary, I would like for you to hear at a later... later this afternoon the gentleman who prepared the first resolution for the American Legion at Chapel Hill. Mr. Chairman, it is thought by some that we should forget the unpleasant events of the past and that to remember them is some sort of heresy. However, I remember that one of our great presidents, Truman, was a great believer in history, and I submit that his philosophy that those who refuse to be mindful of the events and activities of the past have little regard for the future. There has never been a time when the threat to our country both from within and from without is greater than today. Today we are fighting the Communists not only for the minds of men but on the battlefields for our survival and the survival of the free world. It is with this thought in mind that I proceed. I think that it was unfortunate that the Communist Party chose North Carolina as early as the thirties to commence their organizations in the South. It was in the thirties that the first units of the Young Communist League was organized at the University. These activities continued through the years and even to the point where a printing press was set up in Chapel Hill for the printing of Com-

unist propaganda. Through this organization in the thirties, Mr. Clarence Hathaway, who was then the editor of The Daily Worker, was brought to the University where he spoke to the entire student body. These events were a long time ago, and I will not take any more of your time to relate them but simply refer you to the writings of Paul Crouch, who was a leader of the Communist Party in North Carolina but who later broke with the Party and cooperated with the Federal agencies in exposing Communism. Mr. Crouch is now dead but his record and disclosures are available. To demonstrate more vividly the need for the law at the time of its adoption in 1963, I invite your attention to the fifties when Junius Scales, while at the University of North Carolina, was an active Communist. He was the director of the Carolinas in the Communist Party. He graduated there in '46, and continued his work at the University as a graduate student in the Department of History. I might add, Mr. Chairman, that it was also during this period of time, about 1948 to 1950, when John Gates, who was the editor of The Daily Worker, was invited to speak at the University, but his invitation was revoked in light of the 1941 law which was then and is still now on the books, and his speech from the back end of a truck in the town of Chapel Hill was much less effective upon those students, we submit, and to those people who heard him than it would have been had he been

speaking with the dignity that he would have had speaking from a rostrum provided by the State of North Carolina and the University. The activities of Scales and his organizations were brought to light fully in the last ten years, and the memories of these activities should be fresh to all in this State. I've called your attention and the attention of the Commission to the case of Scales versus the United States as it is reported in Volume 260 of the Federal Reporter, Second Edition, at page 21, it being the opinion of the Court of Appeals of the United States and rendered in 1958, and I also invite your attention to the same case as it was handed down by the Supreme Court of the United States and reported in Volume 367 of the United States Supreme Court Reports at 230. I commend those two opinions to you. I quote now, Mr. Chairman, from the opinion of the Court of Appeals decision rendered in 1938, approximately five years before the adoption of this law. I quote: The first of 1950 Scales informed Clontz, and if you'll permit me here to interrupt the quotation for a moment, Clontz is Mr. Ralph Clontz, Jr., who was an informant and became an informant while attending Duke Law School. He is now practicing law in the city of Charlotte, and I would... might respectfully suggest that this Committee might be interested in hearing him as a witness, but I quote from the Court's Opinion: "The first of 1950 Scales informed Clontz that certain Communists at the University had formed a Karl Marx Study Club,

and that representatives of the Party from New York gave lectures to the club at the University. At those lectures it was stated that the Communists believed that a revolution of the kind that had taken place in the Soviet Union was a necessity and that things were moving fast and that the revolution would certainly come before long." I ask you to note here the formation of a Karl Marx Study Club. During the Korean War we were fighting the Communists on the battle front. The Party was distributing literature, Mr. Scales and his Party, accusing America of committing atrocities in Korea and of being the aggressors in Korea, but notwithstanding our experiences then, Communists have from time to time appeared at the University and in 19... in the '50's or on one or more occasions as late as 1960 the well-known Communist poet, Langston Hughes, appeared. This matter was brought to the attention of the general public as early as five years ago...in a speech that I made. More recently and just prior to the adoption of the Law which we are now concerned with, events occurred which I believe led to the adoption of the Law. On July 30, 1962, an organization called the Chapel Hill Progressive Labor Club was formed at the University, as a part of the national council of Marxists groups organized around the magazine, Progressive Labor, published in New York. The group was attempting to organize a truly revolutionary national party based upon improving the conditions of workers along

socialists and Marxists lines. The... it was a part of the Progressive Labor Party a Communist movement which was organized by Milton Rosen who was chairman of the Erie County New York Communist Party until the Federal laws required their registration. He urged at that time a certain action on the part of the Party and that the Party go underground. He left the Party and formed the progressive labor movement which became the Progressive Labor Party, a Communist group supporting the Red Chinese Communist doctrine in preference to the Soviet doctrine. It is a militant organization. It was converted into the Progressive Party and Mr. Milton Rosen heads that organization. The group, the Progressive Labor Club on August 14, 1962, less than one year before the adoption of this Law, brought to the campus Richard Crowder and Hal Reep who spoke in Gerrard Hall at the University...on the campus. Their appearance and their sponsorship by the Club was announced in the University news on April 9, 1962. These two speakers were charged in a kidnapping case along with Robert Williams, who was then in Cuba broadcasting on Communist Cuba's radio, and who, according to Mr. J. Edgar Hoover, is now writing and supplying the writings for the revolutionary action movement -- a highly --quoting Mr. Hoover, a highly militant secret organization following the Chinese oriented Marxist Leninist line and that believes in replacing the capitalistic system with socialism. I refer to you to Mr. Hoover's

testimony before the House Committee on Appropriations, page 60, which I will hand you later. The American Legion, upon learning of this action of the Progressive Labor Club, protested the activities of the Club in October, 1962, just a few months before the enactment of the Law. The Chancellor issued a statement dismissing the charges by saying simply this, and I quote, "We have no evidence that there is a Communist cell on the campus; we have no evidence that any student in the University is a Communist. It is official University policy with regard to student extracurricular activit... (word change) organizations that the student organization must be officially recognized by the University before they can use University facilities and buildings or otherwise be associated as University affiliated agencies. A few students have indicated that they have some affiliations with the so-called progressive labor movement. However, it is quite clear that there is no University recognized club or student organization known as the Progressive Labor Club. Moreover, the University has not received request for recognition of such a group. Last year there was a discussion group known as the New Left which held open meetings. This group was recognized as a properly constituted group. It was disbanded voluntarily by its leaders sometime in the late spring. Efforts are being made at this time by several students to revise (sic) the group. Our inquiries indicate that

there are no grounds to warrant an investigation. The Club was simpl... the Chancellor was content to dismiss it simply as saying it had not been recognized even though it had brought... used college facilities. The Chancellor was quoted by Mr. W. H. Scarborough in the Chapel Hill Weekly on October 10, 1962, as having said, quote This seems to me like a bunch of boys who have fun irritating old folks. The Chancellor was content to dismiss the resolution as I said by saying that it had not been recognized. One of the Club's members who was later killed in New York while preparing for a convention of the Progressive Labor Party was quoted in the same issue of that paper as saying...as describing the Progressive Labor Club as more activist and farther left than the Communist Party, USA. This same person visited Cuba over the objection of the State Department and then returned to the University. He refused to answer questions before a Congressional Committee concerning his Communist activities. But he remained at the University as did his wife whom he later married who was working at the library. To this date, to my knowledge, the Board of Trustees had not acknowledged the resolution presented by the American Legion nor have they caused any inquiry to be made into its contents. And may I say, Mr. Chairman, that I know many many members of the Board of Trustees of the University, in fact, I would say that I have been privileged to know most of them at the present time, and

they are honorable men, but Mr. Chairman, the Board of Trustees of the University meet approximately generally once a quarter not more than three or four times a year, I can't give you the exact number of meetings, and to our knowledge we have no record or there has been no record in the press to our knowledge that this matter was ever brought to the attention of the University Trustees. It was shortly after these incidents that the Legislature of North Carolina, weary of waiting for an indication or acknowledgement of that the problem complained of existed, enacted the present Law. In late 1963, even after the adoption of the present Law, Nicholas Bateson, who was a graduate student and a research assistant and doing work and on the payroll of the University of North Carolina, pled the fifth amendment before a committee of the Congress and refused to answer questions concerning his possible Communist affiliations. This matter was brought to the attention...I believe I have it further...as late as April 1, 1964, this matter was called to the administration's attention. A reply was received dated April 3, 1964, with the only reference to this situation being as follows: Quote I think I mentioned once before in our conversation the University reviews each spring the appointments of personnel holding less than tenure status, and Mr. Bateson's status will be reviewed within a month. As soon as there is a decision, I shall be glad to let you know what that action was or is --what action is taken,

We have had no notification. As late as December 3, 1962, just prior to the convening of the General Assembly that enacted this Law, Communist Milton Rosen spoke in Gerrard Hall at the University in North Carolina. Is the Law still necessary? We think the answer is yes. On May 17, of this year Carl Braden, a Communist Party member, who as late as 1961, was under sentence of our Federal courts to 12 months in prison for his failure to answer questions concerning his Communist activities spoke in Chapel Hill. He did not speak on the college campus but he was scheduled to speak until the provisions of this Law were remembered. We think that had it not been for this Law, that Carl Braden would have been (sic). Now, Mr. Chairman, from press reports, and according to information made available through Senator Hanes at your organizational meeting which I read in the press, this same man was supposed to speak at the University of South Carolina, but the President upon learning of his scheduled appointment, so I read in the paper and from the letter quotation from the letter, cancelled the appointment. It is obvious that Nor...that South Carolina does not need this present Law that we have here because South Carolina is handling their situation without the Law.

Now, Mr. Chairman, I would like to address my remarks, momentarily to the question of academic freedom or freedom of speech. The Law does not infringe on academic freedom nor freedom of speech. Neither is it necessary to bring them to our

campuses in order to preserve free intellectual thought and exchange. It is proper here I think to quote from an editorial of television Station WBTW presented on April 29, 1965, as to what the Law does not do, and I quote: This Law does not apply to either students or teachers who are not Communists or have not taken the fifth amendment with regard to subversive or Communist connections. It does not forbid or prevent or discourage students from reading all of the Communist literature they wish to read. It does not forbid or prevent or discourage students from listening to all of the Communist speakers they wish to hear. It does not put any restrictions on the freedom of a professor to give instruction about Communism or to engage in research on that subject. It does not prohibit the sale, acquisition or possession of literature on or about the Communists even if it comes direct from a Communist press. It does not prevent a known Communist like Gus Hall from speaking to college audiences in college towns and it does not prevent or discourage entire faculty and student body from going to hear such a speaker if they want to. The Law does not attempt to insulate students from Communism and it does not touch the academic freedom of any faculty. There is no restriction or prohibition against either students or faculty. Under this Law the Communist can speak and the students and faculty can listen. The only condition it sets is that it must not be

on state property. The Law is not an answer to the possibility of Communist indoctrination or influence on college campuses, one way or the other. It is a simple statement by the Legislature of this State that it does not choose to furnish facilities to those who have sworn themselves to be the enemies of our system of government. The defenders of the Law should bear in mind what the Law does, and not be side-tracked in trying to justify what it does not do, and it should be free speech is still being served in this State. As to exchange of intellectual thought, let me quote the honorable Frank P. Graham, former President of the University of North Carolina and United States Senator, speaking in Boone, North Carolina, on June 29, 1963, he had this to say, and I quote: A member of the Communist Party who is necessarily under the tyranny of the Party line and therefore automatically without freedom of mind has no valid place as a teacher in a free university. If this applies to a teacher how much more so would it apply to an occasional speaker, as we had called our attention this morning. Very few of us are experts on the Communist technique, and the occasional speaker who appears on the campus. it would impossible for Mr. Hoover or any one else who is acquainted with the Communist technique to correct in the minds of all who may have heard him, any false impressions or untruths that may have been implanted. I believe that the University

presidents of the Association of American Universities put this much better than I could ever do, when in 1953 they issued their report entitled, quote: The Present Danger. And may I quote two paragraphs:

"We condemn Russian Communism as we condemn every other form of totalitarianism. We share the profound concern of the American people at the existence of an international conspiracy whose goal is the destruction of our cherished institutions. The police state would be the death of our universities as of our government. Three of its principles in particular are abhorrent to us: the fomenting a world wide revolution as a step to seizing power, the use of falsehood and deceit as normal means of persuasion, thought control, the dictation of doctrines which must be accepted and taught by all Party members. Under the principles no scholar could adequately disseminate knowledge or pursue investigations in the effort to make further progress toward truth. Appointment to a University position (and I'm still quoting from the Association of Universities)... appointment to a University position and retention after appointment require not only professional competence but involve the affirmative obligation of being diligent and loyal in citizenship. Above all, a scholar must have integrity and independence. This renders impossible adherence to such a regime as that of Russia and its satellites.

No person who accepts or advocates such principles and methods has any place in a university. Since present membership in the Communist Party requires the acceptance of these principles and methods, such membership extinguishes the right to a university position. Academic freedom is not a shield for those who break the law. (And that is quoted from the University Presidents of the Association of American Universities.)

Finally, Mr. Chairman, may I comment just briefly on freedom of speech. The guarantees made to us by the Constitution and especially the first amendment do not apply, our courts have held, to the advocacy of a doctrine which would overthrow the very government which guarantees those principles. And now if I may quote just briefly one other statement from page 56 of Mr. Hoover's testimony... "Public appearances by Party leaders. The increased number of public appearances by leaders of the Communist Party USA in the last few years whether it be in the form of press conferences or radio programs or on college campuses is utilized in the effort to project the image that the Party is a legitimate political party to gain increased acceptance and respectability for the Party, to generate an atmosphere of good will and understanding and to spread Communist propaganda. Mr. Hoover discusses the question further but I wanted to call your attention to that portion in which he says that these methods are

used to give the Party an air of respectability, to make... to leave it the appearance that it is a legitimate political party. All of these activities are carefully designed to inculcate as a part of the normal environment a high regard for the Soviet society and contempt and hatred for democratic principles of our own social and political order. Mr. Chairman, the question has been raised as to whether or not we think our young people are capable of disseminating and discriminating between the truth and the Communist line. We heard admissions this morning that very capable experts did not understand the techniques. I submit that most of our young people are. But if there is an occasional Larry Phelps who is lost to the cause or others of whom we will never know, who may use their Party influence and activities while we are engaged in periods of hostilities as we are now, then this Law is warranted and justified. And, Mr. Chairman, we have some other witnesses. That concludes my presentation and I would be glad to answer any question that I can or attempt to.

Chairman Britt: Thank you very much, Senator Morgan, and inasmuch as you are an exalted member of the Senate of North Carolina, I suppose that I should ask first that one of your peers be permitted to ask you questions and I recognize Senator Gordon Hanes.

Senator Hanes: Senator Morgan, you referred to a letter which I received from the President of the University of South Carolina and I think that perhaps it would be helpful to all of us to know more precisely what the letter said, because it does refer to Braden who spoke at the University of North Carolina and who was refused permission to speak at South Carolina. The only rule in effect has been that speakers can be invited to the campus only by recognized student organizations, that's the only rule they have. He goes on to say you will be interested to know that the Unitarian Fellowship, a recognized student organization, invited Carl Braden to speak on our campus this spring (Braden does not admit being a Communist, but is generally recognized as having all the traits of a Communist.) The President of the Fellowship was called in by the administration and apprised of Braden's background. He stated that most of this information was unknown to him and that he felt that his organization should not invite such a man on the campus. The meeting was cancelled. Braden spoke off campus to a small group in a student's apartment. There was a good bit of discussion of the matter by the communications media but there was no adverse criticism of the University. He goes on to say, we are particularly glad that our legislature did not see fit to pass a Speaker Ban Law. We don't see how an institution can function as effectively in the law with it. Without

a law, we were able to see that Braden was not an acceptable speaker. With the law, we could not have banned him as a Communist because he does not admit being one. As a matter of fact, it is my observation that virtually no one admits being a Communist now-a-days, no matter how extreme are their views. You have said that South Carolina obviously can operate without the Law; we can operate with it better. This is in exact opposite to the President of South Carolina of the University. Do you have any comment on that?

Mr. Morgan: Yes Senator. I would disagree with the President that he could not have been prohibited from speaking under the North Carolina Law--I state emphatically that he could. He had just been released not very long before that from prison for having refused to answer questions concerning his Communistic activities. As a matter of fact, many... there was a petition of clemency but I will not go into that. Furthermore, he is recognized by our responsible government agencies as a Communist. And I would say, Senator Hanes, that I do not believe that there is a member of the Legislature who would not have preferred that the Communist Speaker matters or situation in North Carolina have been handled as that was handled in South Carolina. I'm sure that I speak the sentiments, I feel that I speak the sentiments of every member of the General Assembly, when I say that I... that we would have preferred and wished that the situation had never arisen when the Legislature felt that such a law was necessary.

Senator Hanes: I couldn't agree more.

Chairman Britt: Any further questions, Senator? Mrs. Swindell.

Mrs. Swindell: Well, I would just like to say then. Would you be...would the American Legion be willing to give this authority back to the University officials and the Board of Trustees if... at such a time when that could be agreed upon?

Mr. Morgan: Mrs. Swindell, my answer to that would be in light of the action of the Trustees, I do not believe that the Legion at this time would like...would want to see this done. Because notwithstanding their protests which were loud and clear, so to speak, they have never even had an acknowledgment from the University and..... Trustees, and the Trustees as a matter of fact, just as recently as this year, after certain of these matters ought to have been known, although I'm afraid as a trustee myself I'm frank to say we don't always, you can't learn in a short time everything that goes on at a great university or a great college in a short period of time, but the trustees, the position taken by the trustees at this time, I would as I said earlier I would have preferred and still prefer that it had been handled by the trustees, but in light of their indifference and indifference in the past, I...the American Legion would not be willing to do this.

Mrs. Swindell: ...willing to give that authority to the trustees and the University officials?

Mr. Morgan: No mam.

Mrs. Swindell: Thank you.

Chairman Britt: Senator Kirby.

Senator Kirby: Senator Morgan, you began by giving us information beginning back in the 30's concerning Communist activity at Chapel Hill. Now, over that period of time and coming up to 1965, how many Communist speakers do you have record of appearing on the campus at Chapel Hill?

Senator,

Mr. Morgan: / I do not have that information. There...

Senator Kirby: Well, will other speakers follow you with that information?

Mr. Morgan: It will not be documented this afternoon, but we can supply it to the Committee. There have been others that I have not named. For instance, I had one in my notes which I verified only shortly before coming up here. His record...but then there was some question about the exact dates that he spoke and so on. But I can...we can supply that and furnish the Committee copies of it.

Senator Kirby: Now would this be as to speakers and members of the Communist Party who also have attended the University as students?

Mr. Morgan: We'll try to furnish you both.

Well,

Senator Kirby: / would you be able to give us information as to how many were Communists before they went to the University and how many were converted once they got to the University?

Mr. Morgan: Those that we list, we can, Mr....we will only list those that are a matter of record. We do not choose to engage in the field of speculation or guess work.

Senator Kirby: I'll pass.

Chairman Britt: Mr. Zollicoffer.

Senator Morgan,
Representative Zollicoffer: /Suppose we on the Commission became satisfied that if nothing was done that our school would lose accreditation and there would result a great exodus of faculty members and professors from our schools. Do you think then that this Law should be changed?

Mr. Morgan: No, sir, because, Mr. Chair...Mr. Zollicoffer, we do not believe that if the University or the other State colleges should lose their accreditation solely because of this Communist

Speaker Law that there would be any mass exodus of competent professors.

Rep. Zollicoffer: Suppose you answer my question, though. I said, suppose we determine that there will be one. In other words, you say there won't be an exodus. You don't believe there will. Well, I don't know, frankly, whether there will or there won't. But do you think it would be worth keeping it on the books if we felt that a great deal, a large number of the professors and faculty members would leave our schools?

Gus,

Mr. Morgan: / To answer your question specifically, no. We do not believe that if their services have to be purchased at the price of allowing Communists to come upon our universities to influence our youth as we know that they have been in the past that their services would be worth the price that we would have to pay.

Rep. Zollicoffer: Right. Thank you. (applause)

Chairman Britt: Ladies and gentlemen, I can understand your reason for desiring to agree with the speaker but I would certainly respectfully ask that we withhold any further applause or outbursts of any kind. I certainly hope that we will be able to do that during the remainder of this session.

Senator Morgan, since this Law was enacted and during this inquiry, several people have, connected with some of our institutions, have raised the question that people coming on the campus of North Carolina State University or East Carolina College or some of the others solely for the purpose of talking about medicine or agriculture, or horticulture, or a science in some way unrelated to politics, unrelated to Communist ideo....ideologists, that those people, though they may be from countries behind the iron curtain should be permitted to come and exchange ideas. Do you have any comment on that argument that has been submitted by the opponents of this Law?

Mr. Morgan: Yes, Mr. Chairman. I would say that it probably was not the primary intent of the legislature to concern itself with foreign nationals who may have been Communists or who advocated the overthrow of the government, but so long as the Communist Party, whether they are Russians or Chinese or Cubans, advocate the overthrow of the American Government, we would oppose it, for two reasons. First, I think, perhaps, I can go back to Dr. Graham's quotation which puts it very well: that a member of the Party who is necessarily under the tyranny of the Party line and is automatically without freedom of mind has no valid place on the University campus because he has no freedom to necessarily speak or teach about the truth. And then, too, Mr.

Chairman, it has been said that how about the Russian ballet and other such organizations? And our answer to that is this: As Mr. Hoover said, they seek to gain respectability, not only for the Communist cause but for their Soviet views. And by appearing on the same stages where our Governors and our Presidents and great men have appeared, they gain that respectability. The best illustration that I can use of it is the illustration of Langston Hughes. Langston Hughes was a Communist. He was also a poet. He was invited to speak to... at... on our University campus. I am told by a person who was present and who will speak later that the man read some of his work which was very harmless, very nice. But, of course, he had the recognition of having appeared at a great university. And so I'm sure that if any of those young people listening to him had any intellectual curiosity at all that they wanted to know a little bit more about Langston Hughes. And if they had, they would have learned of his rather involved Communist background. And, more especially, I think, Mr. Chairman, they would probably have read his poem which I think demonstrates this point better than anything else. One of his poems, Communistic poems, was the well known "Good-bye, Christ" which says: Listen Christ... said... you did all right in your day, I reckon, but that day's gone now. They ghosted you up a swell story, too, and they called it the Bible. But he's dead now. The popes and the preachers,

they've sold you to too many . . . and so on, and it goes on, but it says, Beat it on away from here. Make way for a new guy with no religion at all, a real guy named Marx, Communist, Lenin, peasant, Stalin. Worker. Me. Go on now -- get out of the way. Now, surely, Langston Hughes didn't read this poem at the University of North Carolina. No Communist who is smart enough to appear on a public platform would do that. But if he aroused anybody's intellectual curiosity, they read the poem, they looked up his works and they found out something about his background, and and would feel that I can imagine/there would be those who would say, well, there must be something to this man -- he was invited here to the University -- he spoke here. I think even though they do not speak on Communist subjects, we think that the dignity that it adds to them can cause them to have greater influence than they deserve.

Chairman Britt: Thank you Sir. Colonel Joyner?

Colonel Joyner: I have no questions.

Chairman Britt: Mr. Thornburg.

Rep. Thornburg: Senator Morgan, I have some questions, some of which have been passed up and some of which are my own. But a couple of clarifying points: I am sure that you or the American

Legion itself did not mean to suggest or imply that anyone who would oppose this Law was in fact an advocate of Communism.

Mr. Morgan: Certainly not, Mr. Thornburg, and I thought I made that perfectly clear. I find as a legislator we don't agree with each other and many times I don't agree with myself later on, but there's difference of opinion.

Rep. Thornburg: I was fairly certain that that was correct. And then another statement. I think perhaps it was made by Mr. Robbins, I don't remember which one, that the only objection that had been raised about the Legion's activity in this field had, in fact, been raised by University officials. I would like to ask if in fact it isn't true that many members of the Legion oppose the Legion's position in this matter.

Mr. Morgan: I am sure that they are, Mr. Thornburg. I have not personally heard from them, but I would say in answer to that that the resolution was adopted at the State Convention, I believe it was probably another this year and was adopted at the National Convention so I am sure that I represent speak the majority of the Legion. But as in any organization, I am sure that ...

Rep. Thornburg: I was going to inquire into that. Your resolution was adopted in State Convention and all the state in its entirety was

represented there - those who chose to be - members of the Legion were present.

Mr. Morgan: Yes.

Mr. Robbins: I made the other statement, Mr. Thornburg, when I made the statement that I traveled over the state in my capacity as the National executive committemen in speaking to and groups/ I said since this Law was enacted and having addressed many, many people, the only persons who have openly taken issue with my support of this Law have come from the officials of the University. I am sure, as Senator Morgan said, there are those of the Legion who do not agree. But as yet, they have not openly conveyed their thoughts to me in my going around.

Rep. Thornburg: Now by reference to the University, Mr. Robbins, I would ask this: Have you heard from other campuses other than the University, other institutions of higher learning?

Mr. Robbins: No, I have not.

Rep. Thornburg: Strictly University. All right Sir. Now, Senator Morgan, this question was passed and I would like to hear your comment on it. Now perhaps you have already indicated your thinking on it. Do you believe that in the passage of such a law as the Speaker Ban Law that we tend to impose a totalitarian

practice, which, in fact, is one of the basic reasons for our opposition to Communism?

Mr. Morgan: No I do not. I believe that any time, Mr. Thornburg, /we legislate in order to preserve our country and to prevent what I believe and what Mr. Hoover calls treason, that we are well within the prerogatives of a free democracy.

Rep. Thornburg: Now in view of the existing statute I believe you clarified in the beginning that it is sincerely your opinion that the 1963 Law was necessary even though the '41 Law was in effect.

Mr. Morgan: Yes. For reasons yesterday, I believe the '41 Law relates itself to what is being said or talked about rather than to who is doing the talking.

Rep. Thornburg: Now, does it in fact bother you that there is no penalty in the Law? If, in fact, a penalty existed - that it would exist against the administrative officials rather than the speaker himself?

Mr. Morgan: No. It doesn't bother me, Mr. Thornburg. I don't think it was ever intended that there would be a penalty. As a matter of fact, I believe that most of the rules and regulations which have to do with the administration of our government, whether it says that the Governor shall do so and so or the court shall do so

and so, it is set out as this was. It shall be the law. Of course, we lawyers, if it were being disobeyed, would go into court and get an order of... a restraining order or injunction - or mandamus or... I don't believe that you would want to say that the President of the University would be guilty of a misdemeanor, or the Governor of North Carolina would be guilty of a crime if he didn't carry out a certain provision that we've laid down for him. So it doesn't bother me at all.

Rep. Thornburg: Does the Legion itself object to the use of the facility or actually the speech itself? Toward which are we directing the objection?

Mr. Morgan: I would say both, Mr. Thornburg.

Rep. Thornburg: To both. To your knowledge, have any University officials violated the provisions of the ... had any of them violated the provisions of the 1941 Law or since the passage of the 1963 Law - to your knowledge have any of them violated the act?

Mr. Morgan: As to the '41 Law, Mr. Thornburg, I do not know, and I don't know that anyone else would know unless we knew what the speakers talked about. All we can say is that they appeared. Now if I had... had we been present, Communists may have appeared and they may have talked about ballet. Unless they talked about this

doctrine, they would not have violated the '41 Law. I did call
that
attention to one case/I know where the man was moved it was
cancelled. And to my knowledge since '63 the present Law has
not been violated. The nearest thing to it was the Bateson matter
not Bateson but Braden matter. But, of course, he did not speak
so it wasn't violated.

Rep. Thornburg: And I understood Mr. Robbins to state that the American Legion's position was that they did not approve of the teaching of Communism but rather as to who might be teaching it. Is that correct, Mr. Robbins ?

Mr. Robbins: I said the Legion's policy is that we were in favor of teaching about the principles of Communism within the school, ~~that~~ we have published this guideline for teachers.

Teaching About Communism Guidelines for Junior and Senior High School Teachers is a publication that was gotten out jointly by the National Education Association and the American Legion. We feel that the youth of the nation need to know the dangers of Communism but we feel that they need to know when it is being taught to them both sides of the story, not just one.

Rep. Thornburg: So you do in fact believe in our youth being taught what this Communist conspiracy is all about.

Mr. Robbins: We certainly do. Yes, sir.

Rep. Thornburg: I was interested, Senator Morgan, in the list of groups and individuals that you ran through there from the 1930's down to present, referring to instances students and other instances perhaps student organizations. I wonder what effect the present Law would have had on these organizations if any, or how it might have prevented their formation.

Mr. Morgan: You referring now to the one, say the first one?

Rep. Thornburg: First one I believe that you referred to was the Communist League and the most recent one was the Progressive Labor Club.

Mr. Morgan: I am not sure, Mr. Thornburg, that the present Law would have prevented their formation because at that time of course the students had not invoked the Fifth Amendment they were not known Communists such as I am sure was true at the formation of the Progressive Labor Club. At that time I know of none of them who were known Communists. But it would have prevented them from bringing the editor of the Daily Worker down to speak to speak to the entire student body just as the present Law would have prevented them from bringing Milton Rosen down to speak on the college campus, but as far as formation of the students, so long

as they are not known Communists and so long as they have not pled the Fifth Amendment with regard to their subversive activities, it would not affect them. I would think that in recognizing the Club and in granting permission to use the facilities that the Administration would want to know something about the purposes and objects for which the Club was formed.

Rep. Thornburg: But you do not see any effect that this would have had on them, the existing Law?

Mr. Morgan: Not at all.

Rep. Thornburg: Do you have any idea how many speakers in the course of the year, outside speakers, actually come on the University campus?

Mr. Morgan: I would imagine a large number. I have no idea at all to answer your question. No.

Rep. Thornburg: Do you know whether these speakers, in fact, had been cleared with Administration officials or members of the Board of Trustees?

Mr. Morgan: No, I do not. I know from Mr... the Chancellor's statement that only recognized clubs can obtain the facilities and I would assume they have some procedure. Mr. Thornburg, may I

go back to your other question. I think you made a point which I'd like to reemphasize. It may appear from my presentation this afternoon because we are necessarily concerned about one small segment of the thing... many activities that go on that it may appear that we are more critical of the University than we should be. Let me again reemphasize that it's a great University and there are many many many activities that go on that are good and this one thing here - the University of North Carolina is not the only place in the country that has had this problem but I think it has been so unfortunate for us that they began their organization in North Carolina in the 30's but I want to emphasize again that we think it is a great University and they bring some wonderful speakers there.

Rep. Thornburg: My own personal association with you and your warm regards for the greater University and sincere desire to do what is best in its interest so certainly no, no intention to imply that there was any contrary intent on your part.

Mr. Robbins: Those were my intentions too Sir, because I am an alumnus.

Rep. Thornburg: Thank you, Sir. I am interested also in asking a few questions about the letter that was addressed by Commander Carver. Is he going to speak a little later?

Mr. Morgan: No, he will not, but I will be glad to attempt to answer any questions.

Rep. Thornburg: I notice that in his letter he states that there are a large number of witnesses who are connected with the University, faculty members, students and others, who desire to appear and that he request from the President of the University a statement on his part that there would be no punitive action in effect taken. I wonder what prompted that inquiry. Had there been some indication to the Legion that perhaps if faculty members or students appeared, some action would be taken?

Mr. Morgan: Yes, Mr. Thornburg, I have in my file a letter from one member of the faculty who, for very highly personal reasons quote, for which I am sure you will understand I respectfully decline/or cannot appear as indicated. Now I do not think that this is widespread and I am sure that the members of the Administration have not done anything to encourage this but I am also sure that, that Mr. Thornburg, /if I were a member of the faculty at the University and I loved it in Chapel Hill knowing the vigorous position that the Administration and the Trustees have taken, I would be rather reluctant to testify even though I am sure, knowing Dr. Friday as I do, that there would be no recriminations. I want to make it clear that I have no indication that he or any other person themselves have threatened or coerced or attempted to coerce but we do have indications that there

are some who are afraid to appear and we will, we hope, if the Commission hears us further later on present some faculty members and some students.

Rep. Thornburg: Now, on the other side of the coin I note that there was ^a request made for the name and position and home address of the faculty members who recently indicated that they would resign over loss of the accreditation if the Law is not repealed or amended. I - that causes me a little bit of concern. What was the purpose of that?

Well,

Mr. Morgan: / I think, Mr. Thornburg, the purpose was the same as the request made by some members of the Legislature during the session. I was not one of those who made the request, but I think the Legion thought/they would like to know those who possess the feeling that they could not remain at the University unless this Law was repealed.

Rep. Thornburg: I mean there was no contemplated action on the part of the Legion.

Mr. Morgan: No. Certainly not. No sir.

Rep. Thornburg: That was what I had in mind. I believe you indicated that the Legion would furnish us a list of any Communists any information concerning Communists that it might

have of Communists on the campus or members of the University faculty, trustee or any administrative capacity that we might have it for our consideration.

Mr. Morgan: Yes, we will of those of which there is documented evidence of their activities. Of course, you know that I am a not going out on/witchhunt trying to speculate but for those for which a record indicates we will furnish it to you.

Rep. Thornburg: Thank you.

Chairman Birtt: Mr. Fisher do you have any questions?

Mr. Fisher: I have a question from the audience. I am not that certain/I can answer it. But it is simply this. Did Braden take the Fifth Amendment? It is my understanding that he did. Is this correct?

Mr. Morgan: Took the First Amendment, but I don't know about the Fifth specifically. I had a call into Washington when I came up here and/did not get it, but I do know that he was in prison because of his failure to disclose Communistic activities and there was a petition for clemency which was signed by some members of our faculty.

Mr. Fisher: Thank you, I think I shall wait to later. I'll pass now.

Chairman Britt: Any questions, Mr. Myers?

Mr. Myers: Mr. Chairman, I would like to say just a personal word that I think the work that the American Legion does both in the state and nationally to bring to the attention of the American people the dangers of Communism is a tremendous patriotic job. I think perhaps our problem here on the Commission, Senator Morgan, is that there are two schools of thought as to the best method to attain this knowledge. The academic world says that the open forum is the best word, that they will then be better able to show what the problem is and to defeat it. You have a different approach, both of which are probably equally sound like the Presbyterians and the Baptists have different ways to get to heaven, but I think our job really is to try to weigh these two in balance. I would like to ask just one question of fact - for ignorance on my own part. Is it true that there is a fairly large number of Russians who are not members of Communist Party or better stated, isn't it also true that the Communist Party is not the universal membership, individual membership in Russia?

Mr. Morgan: Of course I am not an expert on Communism, but it is my understanding that that's true.

Mr. Myers: This then, I would just throw out. Wouldn't this complicate the problem of the Administration of the University

in obeying this Law as now stated? Any Russian who would come would seem to me you either have to say no Russian can come or you would have to go to Russia to find out whether he was a member of the Party which is an impractical thing.

Mr. Morgan: Well, I think it would raise a problem, but I would say this, that we have an excellent Attorney General's Office and I am sure also that the State Department will have the record of any Russian who's granted a passport to come to this country. And a little facetiously, I might say I doubt that many of those in Russia who are not Communists are coming to this country. I would like to say, Mr. Myers, that we understand that you have a most difficult position and we are appreciative of your efforts in carrying it out.

Chairman Britt: Senator Morgan, it has been suggested by one member of the Commission that it probably would be well for each member to have a memorandum of your remarks. Would that be asking too much of you to try to reduce that for the most part in writing for us in the next few days and give us a copy of it?

Mr. Morgan: I will try to, Dave. I finished them about five minutes before I came up here, but I will try to reduce them to writing. If I may now, I would like to present our next speaker.

Chairman Britt: Proceed. Go right ahead.

Mr. Morgan: Chairman, Lady and Gentlemen of the Committee, the Legion would like for you to hear next from former Senator Clarence Stone. I think that he needs no introduction, but let me say that he was a former senator and President of the Senate. Stone is a member of the American Legion. He was presiding officer of the Senate at the time the Law was enacted. Mr. Stone is a prominent businessman from Rockingham County, and I know of no man in North Carolina who throughout his lifetime has rendered greater service to the people of this State. He has served in the General Assembly of North Carolina in many sessions. He served on the Highway Commission of North Carolina. He served on the Advisory Budget Commission, and to my knowledge, Senator Stone has never served in any position with the State where the position carried a full-time compensation or full-time pay. Two years ago in the Senate I had the privilege of serving/under his leadership. He appointed me to the Committee on Appropriations, and during my service under his leadership, he made only one request of me. After the Subcommittee on Appropriations had considered the budget of the greater University, Senator Stone, who was President of the Senate, called me to his office and there I found three or four other members of the Senate who were members of the Subcommittee and he informed us that he had heard of our action on certain appropriations for the University

and that he felt that we had not appropriated a sufficient amount to the University or to a particular part, department, and that he would like for us to go back and reconsider it, which we did. That's the only request that the Senator made of me during my service under his administration. I'd like to present Senator Stone.

Senator Stone: Mr. Chairman.

Chairman Britt: Senator Stone.

Senator Stone: Members of the Commission. It is getting late and I will not trespass upon your time. Just for a few minutes. After the death of Lieutenant Governor Cloyd Philpott I became the presiding officer of the North Carolina Senate during the legislative session of 1963. As you well know it was during this session that House Bill 1395 was passed. As everyone in North Carolina should know by now, this legislation was passed under suspension of the rules in both the House and the Senate and this sort of procedure is a common practice in the legislature of North Carolina. House Bill 1395 came over to the Senate by special messenger and a motion was made by a Senator that it be placed upon its immediate passage. The motion was adopted and the Bill was before the Senate for immediate consideration. This appears on page 762 of the 1963 Senate Journal. One Senator inquired of the Chair, "What is this Bill all about?" As the presiding officer, I immediately directed the reading clerk to read the Bill in

its entirety. After the Bill had been read and debated by two or three Senators on the floor of the Senate, it passed the second and third readings and was sent to the Enrolling Office. It is important, for the record, to show that no member objected to the third reading of the Bill, which, as every member of the Senate knew he had a right to do and upon such an objection, the Bill would have to go over until the next day. The Senate Journal will also show on June 26, 1963, a Senator moved to recall House Bill 1395 from the Enrolling Office. The motion failed to prevail. Thereafter, upon motion, a statement was signed by 14 Senators who voted against the Bill and this was all spread upon the Journal giving their reasons for the opposition to the Bill. Mr. Chairman, and members of the Commission, that is what happened to that Bill. Some of the newspapers have published statements to the effect that this Bill was sneaked by the General Assembly. Members of the Commission and other people who know, who have served in the Legislature, know that this cannot happen. Any suggestion of unusual passage of this Bill is an insult to the members of the General Assembly and an unmitigated misrepresentation of the facts. It is interesting also to note that the rules were suspended on this same day on eight other bills. During the 1963 session, 128 bills and resolutions were passed by the same procedure. So you see that it was not an unusual procedure. Now I think that it is obvious to everyone acquainted with parliamentary

procedures that neither the President of the Senate nor the Speaker of the House can pass a bill without the support of the bodies over which they preside. If any member of either house wishes to have the vote on a bill reconsidered, or any member desires to have a bill withdrawn from the Enrolling Office, they can do it if they have the support of the membership behind them. The truth about it is that House Bill 1395 passed the House and the Senate by an overwhelming majority. I hope that the Commission will also keep in mind that any member of the Senate could have objected to the third reading on the twenty-fifth and it would have taken a two-thirds vote to override such an objection. No Senator arose to object to the third reading and I hope that you gentlemen and lady will also remember that if any member feels that the presiding officer is wrong in his ruling in any matter, he can appeal to the membership of the Senate to override the action of the presiding officer. No ruling of the presiding officer of the 1963 session was ever challenged by any member of that body. I believe in the right of the University and other educational institutions of North Carolina to pursue truth, but I do not believe that Communist propaganda have got a thing in the world to do with the truth. I do not believe that the State should encourage or sanction in any way speeches made by a known Communist who are therefore under Communist Discipline, which we have learned by bitter experience does not hesitate to misrepresent or to lie. I

think that our students should learn the difference between freedom and Communism, but I think they should take their instruction from good, loyal, free Americans and not from men who cannot speak except as their language is approved by the Kremlin in Moscow.

The people of this State are entitled to feel secure in sending their children to one of our state-supported colleges or universities, and history tells us that many revolutions and causes of revolutions are started by those who would exploit students. Many of our students who are eager to learn will believe anything which they think has the sanction of their instructors or the college or university which they have chosen to attend. The University belongs to all of the people and the trust reposed in the Trustees is to operate the University for the people of North Carolina and not for professors or organizations composed of professors regardless of whether the notions they may have of what we ought to be able to expect from true Americans or some other kind of notion. The Communist Ban Speaker Law does not keep Communists away from professors nor does it keep professors away from Communists. I wish that it did. But it is a good law for the people of North Carolina, and Gentlemen and lady, I think it should stay on the books. I thank you.

Chairman Britt: Mr. Stone, we thank you for your statement, and I feel like I ought to warn members of the Commission that if you desire to ask the Senator any questions, you're liable to come off

second best, but if anyone desires to ask him a question, you will please raise your hand and I'll recognize you. Anyone desire to ask the Senator a question? I see my warning has been heeded.

Senator Stone: Thank you very much.

Britt: Senator Morgan, I notice that the hour is growing a little bit late and you have at least three other people on your program, I believe we're going to take an eight-minute break at this time. Please be back, members of the Commission, at ten minutes till four, and let's resume our meeting.

Commission members will please come to their seats just as quickly as possible, please, we have quite a long way to go this afternoon and we'd like to finish up just as soon as possible. Let us have quietness, please, in the hall. I believe we're ready to begin. At this time, I would just like to take the privilege of just asking him to stand and face the camera and the audience here just for the purpose of people seeing him - not only our visitors here today, but people throughout our viewing television audience. The State Commander of the American Legion, a fine businessman from Dunn, North Carolina, Mr. Alvis Carter. Alvis, we're certainly glad to have you with us on this occasion. Appreciate your coming. Now at this time I'm going to ask, to turn the program over to Senator Morgan and ask him to proceed with his presentation.

Mr. Morgan: Mr. Chairman, lady and gentlemen of the Committee, at this time I would like to present Professor A. C. Jordan who is an assistant professor of English at Duke University. Mr. Jordan is a native of North Carolina, attended undergraduate school at Trinity or Duke University, received his master's degree from Columbia University in New York, attended the Duke University Law School, is a member of the North Carolina Bar, the American Bar Association; he has been a member of the faculty at Duke University since 1925. He has served as adviser to the North Carolina Textbook Commission, he is a member of many professional organizations and has held many offices of honor in those organizations. He is a member of the American Association of University Professors. Mr. Jordan has written books and articles in his field and is eminently qualified. Mr. Jordan will direct his remarks primarily to accreditation. Mr. Jordan.

Mr. Jordan: Mr. Chairman and members of the Committee - (If I can get my voice back in just a few minutes. Teaching requires a lot of usage of voice, and when I stop that why it sort of closes up.) What I would like to do today is first of all to show you two facets of the accreditation of the Southern Association and its criticism of this Ban Law which were not brought out yesterday but which are very important. First of all, I should like to do this... Mrs. Swindell, thank you for the water... First of all, the repre-

sentative yesterday failed to say anything in the world about accreditation by the Southern Association as it would concern graduate education. It so happens that a letter that I'll read you just very shortly by SMU President and Dean of the Graduate School proposed that idea and said very definitely something that you should need to know. I want to bring that out. The second thing is this: I attended the session yesterday morning, and the representative of Vanderbilt made this statement. The representative of the Southern Association stated that the Association objected to influence from the outside, political or religious. Why did he not include regulatory restrictions in government contracts and regulatory controls from the AAUP and perhaps from some of the foundations? Now I had thought of this before he ever spoke, but after that I saw very definitely that, if you will consult the material put out by the Federal government - now I have it right here, I received it from Duke University - here is the material of the National Science Foundation, Health Research Facilities for the Department of Education, Health and Welfare, and for the graduate construction, I have it right there; now in these particular pamphlets there are very definite spots that restrict the Board of Trustees, the faculties of our schools in how they shall handle the funds that the Federal government will contribute or else the Federal government doesn't contribute it. It so happens that I heard an official of Duke University state last week, he says how

education has reached the place today where it is being run by the Federal government. The restrictions are so definite in these matters. Now I could read these things to you but since time is short and there are so many other things to come up, unless you ask me of these things, probably I shall not. But I have right here the bulletin of the American Association of University Professors, the last issue, and I don't know whether, Mr. Chairman, you people have this or not. If you haven't, I would like to give you my copy. On the front page of this I have made several notations, and inside may there you can/find references. It may be that I have been too strict in my interpretation of what these restrictions are. Here's one thing, the government regularly retains control for 20 years of the facilities that it helps pay for. In addition to that, it reserves the right to go into detail and to rego into detail, to check and re-check and to send its members into those institutional places to see if you are following what you said you would follow. They even reserve the right to see whether or not some faculty man in that program has been paid too much as salary when money like that should have come for the purpose of the material benefits, buildings and the like. It also checks as to whether or not a faculty man is on the payroll of the University as well as getting his second pay from this particular service. Now that is so important that the

American Association of University Professors in this bulletin right here has on page 177 and 178 questioned that very idea. Now I think I'll take just time enough to read this to you just a bit. One of the basic purposes of the Association listed under Article One of its Constitution is the promotion of the interest of higher education and research. Since higher education and research in this country are now largely supported by government, about 4 1/2 billion of the 7 million (sic) dollars spent annually on the operating expenses of higher education comes through government channels and since they are subject to a myriad influences and controls through governmental channels, it is inevitable that the Association in promoting these interests will deal extensively with governmental agencies, and it has quite a layout here. On page 178 I have taken the trouble here to mark certain things that I think you people should read.

Now, in addition to that in the summary discussion between grantee there's institutions and the Public Health Service/some very definite references in here that will show you just how the Federal government does limit what trustees can do or what faculties can do in these matters. Now, it seems to me without my going any further into that unless you question, that that is an evidence that we have a restriction by the Federal government in all these matters that is greater than any influence that the Speaker Ban Law can have on restricting a university in its actions, its board of trustees and its faculty. In addition

to that there is a provision in here in which in some instances the Federal government will retain control for 75 years over what you build with government money, and if in addition to that over a period of 20 years you should dispense with the service of that building as a building for graduate education or for what you said it would be worth, the government can upon inspection require you to pay back what the government let you have for that service. They are just some of the restrictions, and I think it's a very important thing when people are putting pressure on whether or not the Ban is a restriction that they should consider just how restrictive the government forces are. Now then, I think I might leave that just a minute. And in that connection I brought with me the Durham Morning Herald. "Speaker Ban Declared Jeopardizing Schools." I am impressed in here with the fact that after newspaper got all the way down it practically said that they're being influenced by that sort of thing very little. Let me read this. "The grants including National Defense Education Act, student loan funds which now aid 6,219 North Carolina students, Health, Education and Welfare funds, the Peace Corps, the Agricultural Extension programs and Defense Department funds for the payment of tuition of armed service personnel they might be affected but both the Ford Foundation and Carnegie Institute emphasized in letters to the Commission that loss of accreditation would not necessarily affect grants but added the

Speaker Ban Law implies a lack of legislative support and confidences
the
in/university governing body" and it goes on down to say that some of
these other organizations just do not say that that will cause a denial
of those funds. I think that the headline was too much for what it
really says.

Now, I have right here something I think is going
to answer many of the questions. It certainly will answer some of
the questions that were directed at Senator Morgan a while ago in
connection with the situation at the University of South Carolina. I
have here something that will be given you in those folders there.
You will be given a set of letters. As I remember it, there are
34 letters in there. A friend of the University of North Carolina
some time ago took it upon himself to address a letter to what he
considers some of the most representative and most outstanding
universities in the United States. I shall read you the letter, there's
a copy of it in the folder that you will get. He asked a question which
is perfectly possible and in his instance intentional. He received
from that 29, 4, and 1 - 29 and 4 would give you what, Mrs.
Swindell, 33 and 1 would be 34, and in addition to that one institution
asked for anonymity and said that it could not afford for the president,
the director of the graduate school or the institution's name to be
mentioned, but it did say this, that in its opinion, accreditation by
the Southern Association would never be touched, that there was no

chance of its being taken away from the University of North Carolina or any of the North Carolina schools. All right. Twenty-nine of these 34 schools that replied, and they include the best universities in America, said emphatically that if the Speaker Ban Law is the basis on which accreditation is denied, it will not affect our acceptance of a graduate of a North Carolina university into our graduate school. Some of the most outstanding universities, and I hope to read you about 8 of them, said that we base first of all our opinion not on an accrediting society but on the intellectual ability, the record of the student; and said in addition to that that the graduate education has ordinarily a national graduate examination that most people take to show that they are qualified as an aptitude test, I know definitely that it's given at Duke University - and in addition to that they went on to say that they did not consider that that was a problem that would have to be considered. Now here is one more thing. The American Association of University Professors' bulletin states that there are 6 regional accrediting associations. There are 29 accrediting associations for professional schools and graduate schools, and in addition to that 2 national accrediting organizations on top of those. The American Association of University Professors makes a statement, and I have so many things marked that I probably can't find it, but it's in here makes a statement that there are so many of those accrediting associations that it has trouble in trying to check

the validity of what they are accrediting and they have to be very careful; they actually in here state that they have had Mr. Sweet, who sat in this chair yesterday, from the Southern Association to try to explain to them and to confer with them regarding the principles of the Southern Association. Now then, if 29 accrediting associations will determine what is to be taught in graduate schools, you see the Southern Association accrediting association applies only to the undergraduate. Now, that was not brought out yesterday; that's a very serious thing because we are concerned with the graduates primarily, and it made this statement that the fact that a student is coming from an accredited school might help to this extent. It might mean that his transcript can be run through a little bit faster than it would not otherwise. They said we judge that boy on his merit. Now, I want to read you the letter, then I want to read you the names of the institutions that said it would not affect them, they would accept the University of North Carolina graduate even though the Speaker Ban Law was kept into effect and accreditation was lost through the Southern Association. North Carolina has what is generally known as a Speaker's Ban Law which is simply this, the Law restricts Communists or those persons who plead the Fifth Amendment from speaking on campuses of state-supported colleges in North Carolina. Attached is a college (sic) of this Law. Each man got a copy of the Law and incidentaly, the only school that

emphatically said no, qualified it by saying that he didn't understand the meaning of the Law and said it should be interpreted by the Southern Association of Colleges and Secondary Schools. That's Oklahoma University. The University of North Carolina is now accredited by the Southern Association of Schools and Colleges. However, the SASC has threatened to remove its accreditation unless the Law is removed from the North Carolina statutes. I would like for my son to graduate from the University of North Carolina and then do graduate work at some out-of-the-state university. In the event that the University of North Carolina lose its accreditation from the Southern Association of Secondary Schools and Colleges, only on the grounds of the Speaker's Ban Law, and my son is eligible in every respect to enter graduate school at your university, would this lack of accreditation by SASC prevent him from doing so if you have an opening? I am naturally interested in the educational welfare of my son and would appreciate very much if you would give me your unofficial opinion on this most vital subject. The schools, the 29 who said emphatically would not, they would accept the student, they would not keep the graduate of the University of North Carolina out of their graduate work: Notre Dame University, Harvard University, University of Missouri, University of Iowa, Southern Methodist University, Auburn University, Cornell University, University of Colorado, Syracuse University, University of Kentucky, Johns

Hopkins University, Northwestern University, Purdue University, Pennsylvania State University, University of Washington, that's the State of Washington, University of Texas, Oregon State University, University of Michigan, Ohio State University, University of Pittsburgh, University of Southern California, Tulane University, University of South Carolina, that's interesting in the light of what was brought up a while ago, Yale University, Princeton University, University of Georgia, University of Chicago, Massachusetts Institute of Technology, Georgia Institute of Technology; now the 4 schools that had questions to raise were the University of Idaho, University of Florida, New York University, Michigan State University. And, sity. / as you will see, University of Florida, New York University, Michigan State University had questions concerning what their state organizations would do such as the regents and the like, you see controlling a whole state, especially Florida. But, I want you to read or listen to what the University of Idaho has to say which I have right here in order. I put these in order, about 8 of them for the purpose of reading to you, now I have lost Idaho, but I'll find it because the statement from Idaho is very significant, and in no wise turns down a graduate of UNC. Here it is. "We probably would accept students from the University of North Carolina whether the school has official accreditation or not if grades are satisfactory. It has been my experience with the students from schools not having full

technical accreditation are accepted by some of the private schools such as Yale. I have turned down students on the basis that they were not from an accredited institution only to learn that they were later accepted by a well-established university that did accept. I don't think we wish to make a practice of obtaining students from unaccredited institutions; however, we would consider students who have good scholastic records and who have good recommendations on admission on a provisional basis and check their work. Now, I would like to read just 2 or 3 of these. I would like to read the Southern Methodist University first because it's a school that proposed what I just talked about graduate accreditation. "In reply to your letter of July 13, I can assure you that your son's application for graduate work at Southern Methodist University would be judged solely on his academic record. As far as I know, the Southern Association of Colleges and Schools does not attempt to standardize or accredit graduate work. Therefore, it would not be primarily involved in the method by which our University selects its graduate students." That point has never been brought out. That's a very significant point. Johns Hopkins University: "It is the policy of the Johns Hopkins University to admit as students those persons that it deems best qualified to pursue the academic program they are allowed to enter. Of course, we cannot take all of those persons

but must limit our numbers in accordance with our resources.

Our emphasis is thus on attaining students who are the best possible scholars. The quality of each student's background is the determining factor with us, and though accreditation is of some importance, we employ our own techniques for determining whether or not the student's background is appropriate." And that's a characteristic that is shown by most schools, graduate schools. Here is The University and of Texas -/incidentally, these letters have come from everyone of six the accrediting associations - "I have been asked to answer your letter of inquiry concerning the possibility of your son's admission to graduate school. At the University of Texas applicants for admission to the graduate school are evaluated on the basis of grade point average, graduate record examination score and letters of reference. Other things are considered of no importance." You heard yesterday that the University of North Carolina graduate work ranks first, Duke second, and Texas third by someone's accrediting or rating. Here is Ohio State University: "First, may I assure you that the loss of accreditation of the University of North Carolina for the reasons indicated in your letter would in no way influence our acceptance of your son into our graduate school. The decision to admit transfer students is left to each individual university. Our own Northcentral Association would raise no question. There would be no reflection upon the quality of the academic program of the Univer-

sity of North Carolina. I feel sure that the concern of the Southern Association of Schools and Colleges relates to the long-range operation of the University under this kind of possible political domination. If your son then presents/ acceptable academic record and meets the competition for admission to the graduate department of his choice he will be admitted to our graduate school." The University of Southern California: this is interesting because the president of this institution is one of the 8 divisions that you are going to hear more about shortly if I have the time, and this is the man who has stood up to that Berkeley rebellion type: "I am under the impression that the Southern Association of Schools and Colleges is primarily concerned with determining accreditation of institutions on the basis of the quality of instruction offered rather than on whether or not Communists are allowed to speak on a particular campus." There I think is a definite slap at the Southern Association if it has any other purpose. If you understood what I just read, you would see definitely - "I am under the impression that the Southern Association of Schools and Colleges is primarily concerned with determining accreditation of institutions on the basis of quality offered.
and instruction/ However, in direct response to the question you present in your letter, I feel confident that your son would be eligible for admission to graduate studies here if, as you say, he is eligible in every other respect to enter graduate school at your university,

and that the lack of accreditation by the Southern Association of Schools and Colleges in itself would not deny him admission to our University." And here is Yale University: by the way, well, I better not say that, - "Should your son apply to the graduate school of Yale University, his admission would be dependent upon our best judgment of his academic and personal qualifications for graduate study. The question of the accreditation of the University from which he received his bachelor's degree would enter the picture only if reflecting a lack of quality in your son's academic preparation for graduate work. Under the circumstances you describe it would have no bearing on the case. I hope this answers your question."

Princeton University: "The accreditation of the college from which an applicant applies is not a direct concern to us in arriving at our admissions decisions. We certainly would not refuse an applicant from North Carolina solely on the grounds that the University had lost its accreditation. I am not in a position to say what inter university relations might be affected by the action you indicate in your letter, but I am sure that there would be no effect on the students from the University of North Carolina applying to this institution." The graduate school of the Massachusetts Institute of Technology, I had a brother who taught there, he taught chemistry there, that is an institution I suppose, as technical institutions go, there's none higher; as a matter of fact, the provost of

that school or the man who has passed out of the picture was chairman of the board, first went to Duke University, he was a freshman there; it so happens that I taught him the freshman year, a man who you know whom I'm talking about; he's the chairman of the board right now, he's been in Federal service and is still there also. "If a college or university were to lose its accreditation because of the low quality of its courses or facilities, this would of course cast a reflection on those of its students who applied for graduate study at other institutions, but we have learned to have a high regard for the graduates of the University of North Carolina, and I do not believe we would think any less of them if the University lost its accreditation for the reason you mention. Our general practice is to consider all our applicants for admission on their individual merits, evaluating them as much as possible apart from the particular institution from which they came. We may find that a graduate of a very good institution falls short compared with others, and that a graduate of a normally weak institution happens to be very good. In short, we are choosing students, not institutions."

Northwestern University: "Your letter to President Miller has been referred to me for answer." I should say here that the President passed all these letters over to their deans of graduate schools, this is done in connection with the deans

of the graduate schools who of course have the authority along with the president - "Your letter to President Miller has been referred to me for answer. I feel almost certain that if the Southern Association should withdraw its approval of the University of North Carolina, those graduate schools who have long known of the good work done at that University would make every effort to see that the students there were not unduly thwarted in their efforts to get a graduate education. When students approach us from an un-accredited college, we require them to present other evidence of ability than the transcript provides, and I suspect that nothing more than the graduate record examination would be required from North Carolina students if that accreditation is dropped. This is no severe penalty inasmuch as virtually all students approaching graduate schools today present the results of the examination of the graduate examination. The graduate examination I referred to.

Purdue University: The uncertainty of North Carolina has long had--The University of North Carolina has had--let me get started -- "The University of North Carolina has long had a high standing in the academic world. If your son has a good academic record and is recommended for admission by one of our subject matter departments, he is almost certain to receive the approval of the graduate school itself. I do not wish to become

involved in the dispute such as you mention in your letter. This type of issue has been a difficult one in recent years. From my own standpoint I wish to reaffirm that we regard the University of North Carolina as an excellent school, and that your son would know, would be considered entirely on the basis of his academic record. I know that you realize that we have more applicants for the graduate school than we can usually accept and that some qualified applicants must be rejected because we do not have the room. The dispute which you mention would not influence our decision."

Pennsylvania State University:

Chairman Britt: Mr. Jordan, I would like to make this observation. Our time is very limited. We have two other people to hear from and if you could submit those for the record and let us read them later.

Mr. Jordan: You're going to get them. We have them right here.

Chairman Britt: Good. Very good, Sir.

Mr. Jordan: Now simply in reading what I did, I was interested in the general public probably hearing this because I know for a fact that this has not leaked out; in other words, when I say leaked

out, it has not been made known.

Chairman Britt: I think your purpose is certainly well taken, Larry, and I am sure that the letters that you have read gives the general import along with the other institutions that you named.

Colonel Joyner: May I summarize in just one second and ask if you agree with my summary. Yesterday at my request I was furnished with copies of these letters. I've read them all. Am I correct in summarizing that my impression is that through the great majority of the letters there runs two threads: Number 1, that accreditation as they understand it is based on the excellence of the instruction?

Mr. Jordan: That is correct.

Colonel Joyner: And Number 2, that they are tremendously surprised and almost astonished that accreditation should be withdrawn because of something that did not affect the excellence of the instruction?

Mr. Jordan: It seems to me that they have been astounded.

Colonel Joyner: Can I read just one portion from Iowa: We are most concerned with the academic standards of the institutions and cannot see that the Speaker Ban Law would particularly affect the

caliber of the course offerings at the University of North Carolina.

That is all I want.

Mr. Jordan: Mr. Chairman, I have just one other thing that should be here. I'll skip over all this.

Chairman Britt: All right. That'll be fine.

Mr. Jordan: I think that on January 18, 1965, when the senate committee of the State of California published its report on the Berkeley riot that it gave the public information, you probably don't have it, I have a copy here and I understand it is one of the few that have been let out. You are going to get this copy in the mail now: this copy has made completely whole story, and I am saying to all of you, anybody in the audience, if you can read the detailed account in here of the Communist conspiracy and how it has been built up at the University of California, if you as a faculty man signed the statement that you wanted this Ban removed, I believe you'd change your mind, and Mr. Chairman, I am going to leave this copy with you and others will get an individual copy, and I am asking just one thing, that each one of you take this in private to your home or your office and begin and read from the beginning. I have read it. I have read part of it twice, and I am astounded at the revelations here and the revelations that are pro-

duced in here are in support of everything that Mr. Morgan has said and that others following possibly can say, because here's what it is. If you'll check the pattern of Communism as it's demonstrated here, you'll see that same pattern is in bloom right here in our area. Now, just after the Communist Party was organized in the United States in the Bay Area they established their headquarters in San Francisco. Why? They were interested in the Bay. That's why we have our longshoremen. You see Bridges right there. They divided the country into twenty areas, California was along with Arizona and Nevada called Number 13. Since that time Nevada has been dropped and Hawaii has been added under the statement that it's a more important, more strategic thing to have it there, and so in addition to that you are going to see that this is going to be something that will be an eye-opener to you and I have just one statement that I would like to read, Mr. Chairman, if I may, and after that well I'll certainly let someone else take over.

I have been told by one of the top security, and it's not the FBI, they're not allowed to talk, top security agencies around, that you, everyone of you, should read Anarchy on Campus in the April issue of The Police Chief, it's a publication of the International Chiefs of Police. This Anarchy on Campus, April issue of Police Chief, that's the magazine, it's published by the International Chiefs of Police Association. And this particular security officer told

me that he was present at this last meeting of this Association and that a professor from Yale University who is also security officer at Yale addressed this Association and referred to this article and he said that if you can read this article and not see what's happening to our educational institutions as a result of Communism that he doesn't understand it. One more thing, I am gone...you'd be interested to know that the Chinese Communists have moved their headquarters in America to San Francisco and they've organized an office there as of May the...no...in 1964 here it is right here.... I'll be very fast in saying this. Well, let me find Red China... I'll get it fast that way ... well it's on page 13, I was looking on 14. Since the publication of the last report Red China has opened an extensive propaganda outlet in San Francisco. It was first located at 292 Coe Street and then moved to larger quarters at 2929 24th Street on July 1, 1964. It is known as China Books and Periodicals. It is well patronized and is listed in Washington as an agency for a foreign government. When a united front is needed for a common cause we see these dissident Communist factions collaborated. Thus when the Berkeley rebellion started, we found the united front being formed of Trotskyites, Mao-ites, socialites, and Moscow Communists joining forces with a wide variety of other groups and they are the ones who have promoted the Viet Nam marches, they are the ones who are in Washington today and according to alerts there'll

be such a thing in our area starting from Duke or Carolina between now and the 23rd of August, and that it was to have started on August 2nd.

Chairman Britt: Do you desire to ask a question, Senator Hanes?

Senator Hanes: Yes, Sir. Professor Jordan, I gather you favor the Speaker Ban Law.

Mr. Jordan: I certainly do.

Senator Hanes: You are a professor at Duke.

Mr. Jordan: Yes, I am.

Senator Hanes: Do you then consider that you and your associates and the Board of Trustees at Duke University are incapable of deciding who shall or shall not speak at Duke and should therefore come under the Speaker Ban Law?

Mr. Jordan: As a matter of fact, if I were to be honest, I'll say yes.

Senator Hanes: Thank you.

Chairman Britt: Does any other member care to ask the Professor a question? If not, we thank you very much, Sir, for your appearance. And Senator Morgan you may call your next witness.

Mr. Jordan: Thank you.

Mr. Morgan: Mr. Chairman, before I do, may I make one statement?

Chairman Britt: Yes Sir.

Mr. Morgan: During the recess I was asked by a member of the press if in my reference on August 14, 1962, I said that the Progressive Labor Party brought to the campus Richard Crowder and Harold Reep who spoke in Gerrard Hall; I was asked if they were Communists and my answer to that is I don't know. They were accomplices or charged with Robert Williams who apparently, who is a Communist and is so identified by Mr. Hoover. I cite that illustration to show you that the... notwithstanding the fact... that the Chancellor said the club was not recognized, that it did have access to Gerrard Hall. Mr. Chairman, we would like to present now Mr. Henry E. Royall of Chapel Hill. He is the Chairman of Americanism at the Chapel Hill American Legion Post, Chapel Hill Number 6. Colonel Royall is a graduate of West Point Academy in 1930. He was a member of the armed forces. He served in World War II in five campaigns, in Tunisia, in Sicily, Normandy, Northern France, Rheinland. He has the silver star, bronze star and two purple hearts. After the War he was retired for disability due to battle wounds received in World War II. He returned to Chapel Hill where he made his home, entered the graduate

school and received his master's degree in political science from the University of North Carolina in 1952. Colonel Royall drafted the original resolution which we think was sufficient or should have been sufficient to warrant a consideration by the Trustees.

Mr. Royall.

Mr. Royall: Mr. Chairman, lady and gentlemen of the Commission, American Legion Post Number 6 of Chapel Hill has honored me for a number of years by electing me Chairman of their Americanism Committee. From that vantage point I have shared with our townspeople and the thousands of my fellow University of North Carolina alumni the humiliation of seeing Communism make its inroads into our beloved University. American Legion Post Number 6 found that good deeds alone would not keep the Carl Bradens or the Milt Rosens off of our campus. Nor would good deeds alone keep those away from our University who would mold North Carolina's hope of the future into another Junius Scales or a Larry Phelps. Legionnaires along with other citizens suffered through the Hans Friestadt and Junius Scales episodes. As a matter of fact, I used to see Friestadt as he rode his bicycle around town and the campus. I heard him recite his Communist line from the respectable rostrum of Gerrard Hall. He as a graduate student and part-time instructor, was accepted as a harmless academic

Marxist until it was disclosed that he had been granted an atomic energy scholarship which eventually might have made atomic secrets available to him. Public opinion caused the withdrawal of that scholarship. Junius Scales was a student when Ann Matthews, a former member of the Communist Party in North Carolina, testified before the House Committee on Un-American Activities. This was in 1947 and she said that Scales was head of the student Communist group at Chapel Hill. Scales was asked about this by the Daily Tar Heel, the student paper, but only a contemptuous remark about the House Committee on Un-American Activities was the response. Three months later Scales issued a statement to the Daily Tar Heel in which he admitted to being a Communist and saying that from close association with the Communists that, quote: Communists are the most human, the most principled people I have ever known. End of quote. Apparently he still believed this falsehood during the Korean War for while walking along Pritchard Avenue about a block from my home I saw printed leaflets that had been dropped in front of peoples' homes and on the printed sheet were the words, quote: Don't give blood for an imperialist war. At the bottom of the leaflet was the name Junius Scales, Communist Party Chairman. At the time a bloodmobile was making the rounds collecting blood for our soldiers in Korea wounded by humane Communist bullets. When the Progressive Labor Club was formed and they

themselves announced it was Marxists-Leninists and was going to become an action group off the campus into the rest of North Carolina, American Legion Post Number 6 became alarmed and rightly so. For this Progressive Labor Club sent members to Monroe, North Carolina, who invited to University of North Carolina Richard Crowder and Harold Reep, criminal partners of Robert Williams who is now a Communist mouthpiece trying to stir up a violent revolution in the United States from the safe sanctuary of Cuba. Reep, Crowder, Williams and Mrs. Mallory, a Mrs. Mallory had kidnapped a man and woman in Monroe, North Carolina. While Crowder and Reep were out of jail on bond or bail respectively \$7,500 and \$3,500, both of them spoke in Gerrard Hall openly seeking support for demonstrations planned for the coming kidnap trial. The local Legion post took action in the form of a resolution recommending, quote: that the State Legislature investigate the University of North Carolina to determine to what extent Marxism had permeated the University. End of quote.

On January 5, 1963, we sent copies of our resolution to all members of the Legislature. In the meantime the resolution was widely circulated throughout the State. The North Carolina Department of the American Legion, as you have already heard, in convention assembled in Charlotte approved the resolution without a dissenting vote. We wanted to know and still want to know who converted

Junius Scales and Larry Phelps to Communism. Larry Phelps, President of the Progressive Labor Club, was quoted in the April 14, 1963 issue of the Daily Tar Heel as saying, quote: I had no Marxist-Leninist feelings until I entered the University of North Carolina. For what purpose was Ann Braden, wife of Carl Braden, invited to speak in Gardner Hall at the University of North Carolina in October 25, 1961? I did not hear her speak, but I did see her in town. Both Ann and Carl Braden are Communists according to sworn testimony of FBI agents. This I have read. The Communist Speaker Ban Law kept Carl off the campus when he was invited to speak at the University of North Carolina as you have already heard on May 17, 1965. Who wanted the Bradens to speak to our students and why was Milton Rosen, Milt Rosen, speaking in Gerrard Hall on the night of December 3, 1962? I went to hear him and remembered him saying these words, quote: We Communists will get Socialism in the United States and the Socialists of the world will help us. End of quote. We believe that the matter of grants, accreditation, and much abused academic freedom all pale into insignificance when our national life is at stake. Therefore, Legion Post Number 6 wholeheartedly approves the Communist Speaker Ban Law and believes that under no circumstances should the Law be amended unless it be to strengthen the Law. A few days ago, I had a conversation with an old friend who escaped from his

native land of Estonia after that small European nation was swallowed up by Communism twenty-five years ago. In parting he grabbed my hand and with an emotion-filled voice said, "Keep the Communist Speaker Ban Law."

Chairman Britt: Colonel Jordan (sic) thank you for your remarks and is there any question from any member of the Commission to Colonel Jordan (sic).

Rep. Thornburg: Yes Sir.

Chairman Britt: Mr. Thornburg.

Rep. Thornburg: Colonel, how many years have you been over at Chapel Hill?

Mr. Royall: I'm sorry, I didn't hear you.

Rep. Thornburg: How many years have you been over at Chapel Hill?

Mr. Royall: I have lived in Chapel Hill since the fall of 1947.

Rep. Thornburg: Now in the course of those years from 1947 to the present, how many members of the student body, the faculty, administrative officials or trustees to your personal knowledge have been members of the Communist Party?

Mr. Royall: I have no answer to that. I don't know.

Rep. Thornburg: In the course of these same years, do you have any knowledge of how many thousands of students might have graduated from the University?

Mr. Royall: That could easily be got from the record.

Rep. Thornburg: Well, do you know?

Mr. Royall: No Sir, I have not added them up.

Rep. Thornburg: Then you wouldn't know what percentage of actual active Communists had permeated the University with regards to its number of students or faculty, and so forth?

Mr. Royall: No Sir, I would not, this is not a matter of numbers or percentages.

Mr. Thornburg: I was a little bit disturbed about the indication that perhaps Commies were making inroads over there or that it was a, I just was interested in to what extent, and I mean the general statement I thought perhaps you would be able to tell.

Mr. Royall: I can only describe that by feeling, sort of an atmosphere, and I believe that if the Commission really wanted to go into this matter, you could get students to tell you that they feel

that to pass their work and get good grades they have to take a leftist tinge.

Rep. Thornburg: Are you telling this...

Another voice: May I...

Rep. Thornburg: No, let me.

Mr. Royall: That is a belief and a feeling.

Rep. Thornburg: Are you telling this Commission, Sir, that in order to pass the work that is a part of the University program, and in order for a student to get a fair grade it's necessary for him to profess or express leftist tendencies?

Mr. Royall: No, I'm not saying that.

Rep. Thornburg: I misunderstood the remark, then. Do you know of your own personal knowledge how many members of the faculty over there have been charged with being active Communists?

Mr. Royall: No, I do not.

Rep. Thornburg: Do you know of any that are presently under surveillance by the Federal Bureau of Investigation?

Mr. Royall: No, I do not.

Rep. Thornburg: Did I understand you to say that you did not know whether Crowder and Reep were Communists; merely that they're associated with Communists?

Mr. Royall: I don't believe I mentioned whether they were Communists or not.

Rep. Thornburg: Well, do you know?

Mr. Royall: All I know is that they were associates of Robert Williams, and he was with the Fair Play for Cuba Committee; the man... the president of the Progressive Labor Club, went to Cuba, came back, took the Fifth Amendment. There is an association there which I cannot explain.

Rep. Thornburg: Then if, in fact, they were not Communists or known Communists, this Law would have had no application to their right to speak on the campus?

Mr. Royall: Will you state that again, please?

Rep. Thornburg: If in fact they were not known Communists, would this Law have come into play barring them from speaking on the campus? Did you say that they took the Fifth Amendment? I'm not...

Mr. Royall: No, I didn't say Reep and Crowder took the Fifth Amendment, I said Phelps took the Fifth Amendment.

Rep. Thornburg: All right, assuming that Phelps took it, and Crowder and Reep associated with him, would this Law have barred Crowder and Reep from speaking on the campus?

Mr. Royall: Not to my knowledge.

Rep. Thornburg: I ask this general question that I take your remarks to imply that in your opinion the University of North Carolina campus creates a favorable atmosphere for the production of Communists? Is that correct?

Mr. Royall: That's my personal observation.

Rep. Thornburg: And you have stated to us in your remarks your reasons for so feeling.

Mr. Royall: Yes, Sir.

Chairman Britt: Senator Hanes did you have a question?

Senator Hanes: Colonel, other than Junius Scales and Larry Phelps, Junius Scales, I believe, attended the University in the '30's.

Mr. Royall: No, in the '40's.

Senator Hanes: The '40's -

Mr. Royall: Late '40's.

Senator Hanes: and Larry Phelps, could you tell us the names of any other Communists that have been produced at the University of North Carolina?

Mr. Royall: Not at this time.

Senator Hanes: Thank you. That's all.

Chairman Britt: Colonel Jordan (sic), someone from the audience sent up this question and I ask it to you upon that request, if you know who did invite Carl Braden to speak at UNC? Do you know who extended the invitation?

Mr. Jordan: No, I do not.

Chairman Britt: All right, Sir. Thank you very much. Senator Morgan, call your next witness.

Mr. Morgan: Mr. Chairman, we apologize for running over our time. We had anticipated that Former Commander Phipps would present resolutions to you; we would like to file those resolutions and ask permission at a later time if at all possible for him to be heard, and we would like also, Mr. Chairman, to correct what I considered as an inference which may have been drawn from Mr.

Thornburg's questions. Let me make it crystal clear that the American Legion does not contend that the faculty members, administration or the Trustees are Communists nor have we made any such accusations. Now, in reference to Mr. Thornburg's question of numbers, I am sure that if you were to list the percentage of those who have been influenced by these Communists it would be minute, but we do not share the doctrine which may have been expressed by some that it's worth losing one or two every now and then in order to preserve intellectual, free intellectual thought; first of all, we don't think that it's necessary to allow them to come to preserve it. We think, Mr. Thornburg, that if we lose one or two, another Larry Phelps or another Junius Scales, who both came from prominent families, among others, that it's worth keeping these people off of the campus and that they have no place at a great university. Mr. Chairman, we would like to file with you the statements of Mr. Stone, these copies of Mr. Hoover's investigation, and we also have copies of the letters from the various institutions that Mr. Jordan read from and with those we have two copies of two speeches given by Mr. J. Edgar Hoover which we would like the Committee... to file with the Committee, along with a copy of an editorial, and I believe that covers it. And we would like for the Committee to have the benefit of those and again we want to thank the Committee for your very careful attention and for the, what we believe

to be the fine job that you're doing in conducting this hearing.

We apologize for running past our time.

Chairman Britt: No apologies are needed, Senator Morgan. We were prepared to give you the entire afternoon. We appreciate your coming, your presentation. I'll ask the clerk immediately following adjournment to pass these pamphlets to the members of the Commission before we leave. I say now that the next meeting of the Commission is scheduled for September 8, and those organizations wishing to be heard on the 9th will please get in touch with me at my home address in Fairmont, North Carolina. The Commission is now adjourned.



